



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

Schedule for Rule Making 2008

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 26 '07	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08
Jan. 11	Jan. 30	Feb. 19	Mar. 5	Mar. 7	Mar. 26	Apr. 30	July 28
Jan. 25	Feb. 13	Mar. 4	Mar. 19	Mar. 21	Apr. 9	May 14	Aug. 11
Feb. 8	Feb. 27	Mar. 18	Apr. 2	Apr. 4	Apr. 23	May 28	Aug. 25
Feb. 22	Mar. 12	Apr. 1	Apr. 16	Apr. 18	May 7	June 11	Sep. 8
Mar. 7	Mar. 26	Apr. 15	Apr. 30	May 2	May 21	June 25	Sep. 22
Mar. 21	Apr. 9	Apr. 29	May 14	***May 14***	June 4	July 9	Oct. 6
Apr. 4	Apr. 23	May 13	May 28	May 30	June 18	July 23	Oct. 20
Apr. 18	May 7	May 27	June 11	June 13	July 2	Aug. 6	Nov. 3
May 2	May 21	June 10	June 25	***June 25***	July 16	Aug. 20	Nov. 17
May 14	June 4	June 24	July 9	July 11	July 30	Sep. 3	Dec. 1
May 30	June 18	July 8	July 23	July 25	Aug. 13	Sep. 17	Dec. 15
June 13	July 2	July 22	Aug. 6	Aug. 8	Aug. 27	Oct. 1	Dec. 29
June 25	July 16	Aug. 5	Aug. 20	***Aug. 20***	Sep. 10	Oct. 15	Jan. 12 '09
July 11	July 30	Aug. 19	Sep. 3	Sep. 5	Sep. 24	Oct. 29	Jan. 26 '09
July 25	Aug. 13	Sep. 2	Sep. 17	Sep. 19	Oct. 8	Nov. 12	Feb. 9 '09
Aug. 8	Aug. 27	Sep. 16	Oct. 1	Oct. 3	Oct. 22	Nov. 26	Feb. 23 '09
Aug. 20	Sep. 10	Sep. 30	Oct. 15	Oct. 17	Nov. 5	Dec. 10	Mar. 9 '09
Sep. 5	Sep. 24	Oct. 14	Oct. 29	Oct. 31	Nov. 19	Dec. 24	Mar. 23 '09
Sep. 19	Oct. 8	Oct. 28	Nov. 12	***Nov. 12***	Dec. 3	Jan. 7 '09	Apr. 6 '09
Oct. 3	Oct. 22	Nov. 11	Nov. 26	***Nov. 26***	Dec. 17	Jan. 21 '09	Apr. 20 '09
Oct. 17	Nov. 5	Nov. 25	Dec. 10	***Dec. 10***	Dec. 31	Feb. 4 '09	May 4 '09
Oct. 31	Nov. 19	Dec. 9	Dec. 24	***Dec. 24***	Jan. 14 '09	Feb. 18 '09	May 18 '09
Nov. 12	Dec. 3	Dec. 23	Jan. 7 '09	Jan. 9 '09	Jan. 28 '09	Mar. 4 '09	June 1 '09
Nov. 26	Dec. 17	Jan. 6 '09	Jan. 21 '09	Jan. 23 '09	Feb. 11 '09	Mar. 18 '09	June 15 '09
Dec. 10	Dec. 31	Jan. 20 '09	Feb. 4 '09	Feb. 6 '09	Feb. 25 '09	Apr. 1 '09	June 29 '09
Dec. 24	Jan. 14 '09	Feb. 3 '09	Feb. 18 '09	Feb. 20 '09	Mar. 11 '09	Apr. 15 '09	July 13 '09

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
5	Friday, August 8, 2008	August 27, 2008
6	Wednesday, August 20, 2008	September 10, 2008
7	Friday, September 5, 2008	September 24, 2008

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, August 12, 2008, at 8:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Information technology—board membership, audit of fees, 20.5, 20.8(6) Notice **ARC 6982B**..... 7/30/08
 Information technology—participating agencies, operational standards, 25.1, 25.5(5)
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 Renewal of SPR for speech-language pathologists, 15.12(3) Filed **ARC 6953B**..... 7/16/08
 Renewal of SPR for school social workers, 15.19(3) Filed **ARC 6954B** 7/16/08
 Renewal requirements for an SPR, 17.14 Filed **ARC 6955B** 7/16/08
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 Code of rights and responsibilities, 26.3 Filed **ARC 6961B** 7/16/08

ELDER AFFAIRS DEPARTMENT[321]

Resident advocate committees, ch 9 Filed Emergency After Notice **ARC 7031B** 7/30/08

ENVIRONMENTAL PROTECTION COMMISSION[567]

Natural Resources Department[561]"umbrella"

Reissued Regional Permit 7—water quality certification, 61.2(2)"h" Notice **ARC 7039B** 7/30/08
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HUMAN SERVICES DEPARTMENT[441]

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 Temporary measures related to disasters, 58.41 to 58.45
Notice **ARC 6995B**, also Filed Emergency **ARC 6994B** 7/30/08
 Medicaid eligibility and benefits, amendments to chs 75, 76 Filed **ARC 7011B**..... 7/30/08

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HAWK-I program, amendments to ch 86 Notice **ARC 7015B** 7/30/08

HAWK-I program eligibility, 86.1 to 86.3, 86.5(2), 86.10 Filed **ARC 6926B** 7/16/08

Medicaid—addition of all-inclusive care for the elderly (PACE), amendments to ch 88
Filed Emergency After Notice **ARC 7013B** 7/30/08

IowaCare—acquisition of smoking cessation drugs, 92.7(2), 92.8
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INSPECTIONS AND APPEALS DEPARTMENT[481]

Residents of facilities—treatment by health care practitioner other than the resident’s
physician, 57.15(6), 58.14(8), 63.15(6) Filed **ARC 7010B** 7/30/08

IOWA FINANCE AUTHORITY[265]

Title guaranty division—mortgage relief certificates, 9.20 Filed **ARC 7042B**..... 7/30/08

Title guaranty division—closing protection letters, 9.22 Filed **ARC 7043B** 7/30/08

Low-income housing tax credits, 12.1, 12.2 Filed **ARC 7040B** 7/30/08

State housing trust fund, 19.1 Filed **ARC 7041B** 7/30/08

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MANAGEMENT DEPARTMENT[541]

DAS customer council, ch 12 Notice **ARC 6996B** 7/30/08

NATURAL RESOURCE COMMISSION[571]

Natural Resources Department[561]“umbrella”

Point values assigned to convictions, 15.6(3)“a”(22) Notice **ARC 7037B** 7/30/08

Lake Odessa—addition of two no-wake areas, 40.9(3) Filed **ARC 7034B**..... 7/30/08

Zoning of Catfish Creek, Dubuque County, 40.57 Filed **ARC 7033B** 7/30/08

Zoning of Lake Cornelia, Wright County, 40.58 Filed **ARC 7032B** 7/30/08

Wildlife refuges, 52.1(2)“a” Filed **ARC 6938B** 7/16/08

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NURSING BOARD[655]

Public Health Department[641]“umbrella”

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PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Commerce Department[181]“umbrella”

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PROFESSIONAL LICENSURE DIVISION[645]

Public Health Department[641]"umbrella"

Board of dietetics, rescind chs 80, 84; amend chs 81 to 83	Notice	ARC 7045B	7/30/08
Board of mortuary science, rescind chs 99, 105; amend chs 100 to 103	Notice	ARC 6997B	7/30/08
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Dental screening, ch 51	Filed	ARC 7024B	7/30/08
Blood lead testing, ch 67	Filed	ARC 7025B	7/30/08
Prescription drug donation repository program, 109.4(4)"d," 109.7, 109.8	Filed	ARC 7026B	7/30/08
Preparedness advisory committee, ch 114	Filed	ARC 7027B	7/30/08
County medical examiner investigators—qualifications and supervision, 127.7	Filed	ARC 7028B	7/30/08
Dogs for scientific research, ch 128	Filed Without Notice	ARC 7030B	7/30/08
Smokefree air, ch 153	Notice	ARC 6990B, also Filed Emergency	ARC 6989B
Fair information practices and public records, ch 175	Filed	ARC 7029B	7/30/08

PUBLIC SAFETY DEPARTMENT[661]

Inventory of impounded vehicles under emergency conditions, 6.4(2)	Notice	ARC 6999B, also Filed Emergency	ARC 6986B	7/30/08
Submission of fingerprints by law enforcement agencies—"working day" defined, 11.2	Notice	ARC 7000B, also Filed Emergency	ARC 6987B	7/30/08
Bail enforcement, private investigation, and private security businesses—issuance of replacement licenses, 121.2, 121.24	Notice	ARC 6998B, also Filed Emergency	ARC 6985B	7/30/08
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Commerce Department[181]"umbrella"

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Time period for completion of required education, 4.1(10), 16.2(3)	Notice	ARC 7004B	7/30/08

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Voting centers for certain elections, 21.75	Notice	ARC 7046B, also Filed Emergency	ARC 7047B	7/30/08
Revenue purpose statement ballots, 21.803	Notice	ARC 6991B, also Filed Emergency	ARC 6992B	7/30/08
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Water protection practices—cost-share rates, 12.81(2), 12.84	Filed Emergency After Notice	ARC 6981B	7/30/08
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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Veterans trust fund, amendments to ch 14	Notice	ARC 7022B, also Filed Emergency	ARC 7021B	7/30/08
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Veterans commemorative property, 15.2, 15.3(1), 15.4(6) Notice **ARC 7002B** 7/30/08
 Limited residency Vietnam Conflict veterans bonus, ch 16
Notice **ARC 7019B**, also Filed Emergency **ARC 7018B** 7/30/08

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Participation in fact-finding interviews, 24.10 Notice **ARC 7044B** 7/30/08

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2011.

Senator Jeff Angelo
 P.O. Box 604
 Creston, Iowa 50801

Senator Michael Connolly
 2600 Renaissance Drive, #3
 Dubuque, Iowa 52001

Senator Thomas Courtney
 2200 Summer Street
 Burlington, Iowa 52601

Senator John P. Kibbie
 P.O. Box 190
 Emmetsburg, Iowa 50536

Senator James Seymour
 901 White Street
 Woodbine, Iowa 51579

Joseph A. Royce
Legal Counsel
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Representative Marcella R. Frevert
 P.O. Box 324
 Emmetsburg, Iowa 50536

Representative David Heaton
 510 East Washington
 Mt. Pleasant, Iowa 52641

Representative David Jacoby
 2308 North Ridge Drive
 Coralville, Iowa 52241

Representative Linda Upmeyer
 2175 Pine Avenue
 Garner, Iowa 50438

Representative Philip Wise
 503 Grand Avenue
 Keokuk, Iowa 52632

James Larew
Administrative Rules Coordinator
 Governor's Ex Officio Representative
 Capitol, Room 11
 Des Moines, Iowa 50319
 Telephone (515)281-0208

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Sustainable community projects; downtown revitalization fund, amendments to ch 23 IAB 7/16/08 ARC 6944B	Iowa Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 6, 2008 3 p.m.
Housing fund, amendments to ch 25 IAB 7/16/08 ARC 6943B	ICN/Main Conference Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 11, 2008 1 p.m.
Regional sports authority districts, 38.1 to 38.8 IAB 7/16/08 ARC 6942B	Iowa Conference Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 7, 2008 3 to 4 p.m.
Targeted industries networking fund, 107.1 to 107.8 IAB 7/16/08 ARC 6941B	ICN/Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	August 6, 2008 3:30 to 4:30 p.m.
Lean manufacturing institutes, supplier capacity and product database, and management talent recruitment, chs 110 to 112 IAB 7/16/08 ARC 6940B	Main Conference Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 8, 2008 10 to 11:30 a.m.
River enhancement community attraction and tourism fund, amendments to chs 211, 212 IAB 7/16/08 ARC 6939B	Main Conference Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 7, 2008 2:30 to 4:30 p.m.
EDUCATIONAL EXAMINERS BOARD[282]		
Designation of legal counsel by the board, 11.21(3) IAB 7/16/08 ARC 6980B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 6, 2008 1 p.m.
Adding endorsements to licenses, 14.106 IAB 7/16/08 ARC 6971B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 6, 2008 1 p.m.
Administrator licenses, 14.114 IAB 7/16/08 ARC 6977B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 6, 2008 1 p.m.
Two-year teacher exchange license, 14.120(1) IAB 7/16/08 ARC 6973B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 6, 2008 1 p.m.
Special education instructional endorsements, 15.1(2) IAB 7/16/08 ARC 6978B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 6, 2008 1 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Reissued regional permit 7—water quality certification, 61.2(2) IAB 7/30/08 ARC 7039B	Fifth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 19, 2008 1 p.m.
Independent redemption center grant program, 107.16 IAB 7/30/08 ARC 7038B	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 19, 2008 2 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
HISTORICAL DIVISION[223]		
Historic tax credits, amendments to ch 48 IAB 6/18/08 ARC 6927B (See also ARC 6925B) (ICN Network)	ICN Classroom 600 East Locust St. Des Moines, Iowa (For a listing of ICN sites, go to http://www.culturalaffairs.org/about/admin_rules/index.htm)	August 12, 2008 2 p.m.
INSURANCE DIVISION[191]		
Workers' compensation insurance rate filing procedures, ch 60 IAB 7/2/08 ARC 6909B	330 Maple St. Des Moines, Iowa	July 30, 2008 10 a.m.
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]		
Benefits; service credit and purchases; dividends, amendments to chs 4, 6 to 8, 13 to 15 IAB 7/16/08 ARC 6975B	7401 Register Dr. Des Moines, Iowa	August 5, 2008 9 a.m.
LABOR SERVICES DIVISION[875]		
Construction personnel hoists, amendments to chs 71, 75, 76 IAB 7/16/08 ARC 6946B (See also ARC 6947B)	Stanley Room 1000 East Grand Ave. Des Moines, Iowa	August 6, 2008 10 a.m. (If requested)
MANAGEMENT DEPARTMENT[541]		
DAS customer council, ch 12 IAB 7/30/08 ARC 6996B	Room G14 State Capitol Bldg. Des Moines, Iowa	September 5, 2008 10 a.m.
NATURAL RESOURCE COMMISSION[571]		
Point values assigned to convictions, 15.6(3) IAB 7/30/08 ARC 7037B	Fifth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 19, 2008 9 a.m.
Removal of trotlines, 85.1 IAB 7/30/08 ARC 7036B	Fifth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 22, 2008 3 p.m.
Administrative fee for fishing tournament permit, 88.2 IAB 7/30/08 ARC 7035B	Fifth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 22, 2008 3 p.m.
NURSING BOARD[655]		
Administration of anesthetic agents, 6.2(6), 6.4 IAB 7/30/08 ARC 7009B	Des Moines West Room, Holiday Inn 1050 6th Ave. Des Moines, Iowa	September 10, 2008 6 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
PROFESSIONAL LICENSURE DIVISION[645]		
Board of dietetics, rescind chs 80, 84; amend chs 81 to 83 IAB 7/30/08 ARC 7045B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	August 20, 2008 10 to 11 a.m.
Board of mortuary science, rescind chs 99, 105; amend chs 100 to 103 IAB 7/30/08 ARC 6997B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	August 19, 2008 9 to 9:30 a.m.
Board of psychology, rescind chs 239, 243; amend chs 240 to 242 IAB 7/16/08 ARC 6931B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	August 5, 2008 10 to 11 a.m.
PUBLIC HEALTH DEPARTMENT[641]		
Immunizations, amendments to ch 7 IAB 7/16/08 ARC 6974B (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	August 7, 2008 9 to 10 a.m.
	Room 106, Activity Center North Iowa Area Community College 500 College Dr. Mason City, Iowa	August 7, 2008 9 to 10 a.m.
	Room 116, Red Oak Center Southwestern Community College 2300 N. 4th St. Red Oak, Iowa	August 7, 2008 9 to 10 a.m.
	Room 528, Trustee Hall, North Campus Southeastern Community College 1500 West Agency West Burlington, Iowa	August 7, 2008 9 to 10 a.m.
	Loess Hills AEA 13 24997 Hwy. 92 Council Bluffs, Iowa	August 7, 2008 9 to 10 a.m.
	Room 157, Vocational Technical Bldg. Ottumwa High School 501 E. 2nd St. Ottumwa, Iowa	August 7, 2008 9 to 10 a.m.
	Room 302, Kahl Educational Center Eastern Iowa Community College District 326 W. 3rd St. Davenport, Iowa	August 7, 2008 9 to 10 a.m.
	Fiber Optic Education Center Orange City Hospital and Clinics 400 Central Ave. Orange City, Iowa	August 7, 2008 9 to 10 a.m.
	Meeting Room D Public Library 123 S. Linn St. Iowa City, Iowa	August 7, 2008 9 to 10 a.m.
	Public Library 524 Main St. Cedar Falls, Iowa	August 7, 2008 9 to 10 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
Smokefree air, ch 153 IAB 7/30/08 ARC 6990B (See also ARC 6989B herein) (ICN Network)	Public Library 424 Central Ave. Fort Dodge, Iowa	August 7, 2008 9 to 10 a.m.
	<u>Origination Site:</u> Meeting Room D, Public library 123 S. Linn St. Iowa City, Iowa	August 20, 2008 9:30 to 11:30 a.m.
	Great River AEA 16 3601 West Ave. Burlington, Iowa	August 20, 2008 9:30 to 11:30 a.m.
	Room 203B, Linn Hall Kirkwood Community College 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	August 20, 2008 9:30 to 11:30 a.m.
	Room 105, Clinton Community College 1000 Lincoln Blvd. Clinton, Iowa	August 20, 2008 9:30 to 11:30 a.m.
	Room 100, Wayne Comm. High School 102 N. Dekalb St. Corydon, Iowa	August 20, 2008 9:30 to 11:30 a.m.
	Room 300, Kahl Educational Center Eastern Iowa Community College District 326 W. 3rd St. Davenport, Iowa	August 20, 2008 9:30 to 11:30 a.m.
	Keota High School North Ellis Ave. Keota, Iowa	August 20, 2008 9:30 to 11:30 a.m.
	Room 157, Voc. Tech. Bldg. Ottumwa High School 501 E. 2nd Ottumwa, Iowa	August 20, 2008 9:30 to 11:30 a.m.
	<u>Origination Site:</u> Waterloo West High School Baltimore and Ridgeway Waterloo, Iowa	August 20, 2008 2:30 to 4:30 p.m.
	Decorah High School. 100 E. Claiborne Dr. Decorah, Iowa	August 20, 2008 2:30 to 4:30 p.m.
	Room A-123 Dubuque Senior High School 1800 Clarke Dr. Dubuque, Iowa	August 20, 2008 2:30 to 4:30 p.m.
	Regional Office – Marshalltown, AEA 267 909 S. 12th St. Marshalltown, Iowa	August 20, 2008 2:30 to 4:30 p.m.
	Room 106, Activity Center North Iowa Area Community College 500 College Dr. Mason City, Iowa	August 20, 2008 2:30 to 4:30 p.m.
	<u>Origination Site:</u> Second Floor, Department of Education Grimes State Office Bldg. Des Moines, Iowa	August 21, 2008 2:30 to 4:30 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
	Room N147, Lagomarcino Hall Iowa State University Knoll Road & Pamel Drive Ames, Iowa	August 21, 2008 2:30 to 4:30 p.m.
	Room A169, Carroll High School 2809 N. Grant Rd. Carroll, Iowa	August 21, 2008 2:30 to 4:30 p.m.
	Room 101, Guthrie Center High School 906 School St. Guthrie Center, Iowa	August 21, 2008 2:30 to 4:30 p.m.
	Room 104, Newton High School 800 E. 4th St. S. Newton, Iowa	August 21, 2008 2:30 to 4:30 p.m.
	Room 115, Pella High School 212 E. University St. Pella, Iowa	August 21, 2008 2:30 to 4:30 p.m.
	<u>Origination Site:</u> Public Library 400 Willow Ave. Council Bluffs, Iowa	August 22, 2008 9:30 to 11:30 a.m.
	Turner Room, Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	August 22, 2008 9:30 to 11:30 a.m.
	Room 4, Elk Horn-Kimballton High School 4114 Madison St. Elk Horn, Iowa	August 22, 2008 9:30 to 11:30 a.m.
	Clarke Community High School 800 N. Jackson Osceola, Iowa	August 22, 2008 9:30 to 11:30 a.m.
	Ed May Center, Shenandoah High School 1000 Mustang Dr. Shenandoah, Iowa	August 22, 2008 9:30 to 11:30 a.m.
	Woodbine High School Fifth and Weare Woodbine, Iowa	August 22, 2008 9:30 to 11:30 a.m.
	<u>Origination Site:</u> 4th Floor, DHS Trospar-Hoyt Cty. Services Bldg. 822 Douglas St. Sioux City, Iowa	August 22, 2008 2:30 to 4:30 p.m.
	Fiber Optic Room, Armory Bldg. Cherokee High School 600 W. Bluff St. Cherokee, Iowa	August 22, 2008 2:30 to 4:30 p.m.
	Room B-6 Western Iowa Tech. Community College 11 N. 35th St. Denison, Iowa	August 22, 2008 2:30 to 4:30 p.m.
	Room 204, Library Building Prairie Lakes AEA 8 – Fort Dodge 330 Avenue M Fort Dodge, Iowa	August 22, 2008 2:30 to 4:30 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
	MOC-Floyd Valley High School 615 8th St. SE Orange City, Iowa	August 22, 2008 2:30 to 4:30 p.m.
	Room 120-121 Central Lyon Elementary-Middle School 1105 S. Story Rock Rapids, Iowa	August 22, 2008 2:30 to 4:30 p.m.
	Room 16, Iowa Central Community College 916 N. Russell Storm Lake, Iowa	August 22, 2008 2:30 to 4:30 p.m.
PUBLIC SAFETY DEPARTMENT[661]		
Inventory of impounded vehicles under emergency conditions, 6.4(2) IAB 7/30/08 ARC 6999B (See also ARC 6986B herein)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 8:45 a.m.
Division of commercial investigation—identification, 11.2 IAB 7/30/08 ARC 7000B (See also ARC 6987B herein)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 8:30 a.m.
Manufactured housing support and anchorage systems,16.622, 16.625, 16.626, ch 322 IAB 7/2/08 ARC 6897B (See also ARC 6898B)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 10 a.m.
Records retention manual; employee photographs, 25.11, 25.15 IAB 7/2/08 ARC 6916B	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 8 a.m.
Bail enforcement; private investigative and security businesses—licensure, 121.2, 121.24 IAB 7/30/08 ARC 6998B (See also ARC 6985B herein)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 9 a.m.
Evidentiary breath testing, 157,2121.2, 121.24 IAB 7/30/08 ARC 7020B	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 8:15 a.m.
Temporary storage of flammable liquids in disaster emergencies, 221.4(4) IAB 7/16/08 ARC 6949B (See also ARC 6967B)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 8 a.m.
Fire fighter certification standards, 251.202 IAB 7/2/08 ARC 6894B	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 8:30 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
Certification of automatic fire extinguishing system contractors, 275.5(4) IAB 7/30/08 ARC 7005B (See also ARC 6984B herein)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 9:15 a.m.
Energy conservation in construction, 300.4(1), 300.6(4), 303.1 to 303.3 IAB 7/2/08 ARC 6883B (See also ARC 6885B)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 10:30 a.m.
State Building Code—factory-built structure, 322.11, ch 323 IAB 7/30/08 ARC 7008B (See also ARC 7007B herein)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 9:30 a.m.
Suspension of installation requirements for manufactured homes during emergencies, 322.12 IAB 7/16/08 ARC 6969B (See also ARC 6970B)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 10 a.m.
Manufactured housing—relocation due to disaster emergency, 372.8(4) IAB 7/30/08 ARC 7006B (See also ARC 6988B herein)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 9, 2008 9:30 a.m.
Manufactured housing installer certification, ch 374 IAB 7/2/08 ARC 6880B (See also ARC 6881B)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 9 a.m.
Temporary emergency certification for manufactured housing installers, 374.11 IAB 7/16/08 ARC 6965B (See also ARC 6966B)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 9 a.m.
REAL ESTATE COMMISSION[193E]		
Moral turpitude defined, 2.1 IAB 7/30/08 ARC 7001B	Second Floor Conference Room 1920 SE Hulsizer Rd. Ankeny, Iowa	August 19, 2008 10 a.m.
Time period for completion of required education, 4.1(10), 16.2(3) IAB 7/30/08 ARC 7004B	Second Floor Conference Room 1920 SE Hulsizer Rd. Ankeny, Iowa	August 19, 2008 10 a.m.
TRANSPORTATION DEPARTMENT[761]		
Close-clearance warning signs along railroad tracks, ch 813 IAB 7/30/08 ARC 7003B	Modal Division Conf. Rm., Admin. Bldg. 800 Lincoln Way Ames, Iowa	August 21, 2008 10 a.m. (If requested)

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]		
Veterans trust fund, amendments to ch 14 IAB 7/30/08 ARC 7022B (See also ARC 7021B herein)	Building A6A, Camp Dodge 7105 NW 70th Ave. Johnston, Iowa	August 19, 2008 2:30 to 4:30 p.m.
Veterans commemorative property, 15.2, 15.3(1), 15.4(6) IAB 7/30/08 ARC 7002B	Dodge House, Bldg. A6A, Camp Dodge 7105 NW 70th Ave. Johnston, Iowa	August 19, 2008 2 to 2:30 p.m.
Limited residency Vietnam Conflict veterans bonus, ch 16 IAB 7/30/08 ARC 7019B (See also ARC 7018B herein)	Building A6A, Camp Dodge 7105 NW 70th Ave. Johnston, Iowa	August 19, 2008 1:30 to 2 p.m.
WORKFORCE DEVELOPMENT DEPARTMENT[871]		
Participation in fact-finding interviews, 24.10 IAB 7/30/08 ARC 7044B	1000 E. Grand Ave. Des Moines, Iowa	August 19, 2008 9:30 a.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

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 Agricultural Development Authority[25]
 Soil Conservation Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
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 Alcoholic Beverages Division[185]
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 Credit Union Division[189]
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 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
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 Savings and Loan Division[197]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
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ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
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IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
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EGG COUNCIL, IOWA[301]
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EMPOWERMENT BOARD, IOWA[349]
ENERGY INDEPENDENCE, OFFICE OF[350]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
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INSPECTIONS AND APPEALS DEPARTMENT[481]
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Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
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PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
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Homeland Security and Emergency Management Division[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
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REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
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VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
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ARC 6982B

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 8A.201 and 8A.204, the Department of Administrative Services hereby gives Notice of Intended Action to amend Chapter 20, "Information Technology Governance," Iowa Administrative Code.

The proposed amendments align the rules with recent changes to the Code of Iowa, including provisions that allow the Technology Governance Board to elect a chairperson and vice chairperson on an annual basis, and detail an audit process by which the Board can review fees previously approved and make recommendations to the IOWAccess Advisory Council pursuant to Iowa Code section 8A.204.

Any interested party may make written or oral comments on the proposed amendments on or before August 19, 2008. Such written comments should be directed to Wes Hunsberger or Patricia Lantz, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319, or may be sent by fax to (515)281-6401 or by E-mail to wes.hunsberger@iowa.gov or patricia.lantz@iowa.gov.

These amendments are intended to implement Iowa Code sections 8A.201 and 8A.204.

The following amendments are proposed.

ITEM 1. Amend rule 11—20.5(81GA,ch90) as follows:

11—20.5(81GA,ch90 8A) Officers of the board.

~~20.5(1) The director shall serve as the permanent chair of the board.~~ technology governance board annually shall elect a chairperson and a vice chairperson from among the members of the board, by majority vote, to serve one-year terms.

~~20.5(2) The technology governance board annually shall elect a vice chair from among the members of the board, by majority vote, to serve a one-year term.~~

ITEM 2. Amend subrule 20.8(6) as follows:

20.8(6) Fees for electronic access. ~~The board shall review fee proposals for value-added services from state agencies and other governmental entities that have been recommended to the board by the IOWAccess advisory council, and shall submit decisions regarding such fees approved by the board to the department of management.~~ The board shall also perform or cause to have performed periodic audits of approved fees. If at any time the findings from an audit cause the board to reconsider its approval of a fee, the board shall within five business days notify the IOWAccess advisory council and the state agency of its reconsideration of the fee and request the agency to resubmit the adjusted fee to the IOWAccess advisory council for the council's recommendation. In establishing and auditing the fees for value-added services, the board shall consider the reasonable ~~cost~~ costs of creating and organizing government information into a gateway for one-stop electronic access to government information and transactions, whether federal, state, or local. The board shall submit decisions regarding fees to the department of management and to the legislative services agency.

ARC 6983B

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 8A.201, the Department of Administrative Services hereby gives Notice of Intended Action to amend Chapter 25, "Information Technology Operational Standards," Iowa Administrative Code.

The proposed amendments align the rules with recent changes to the Code of Iowa, including provisions that exempt certain departments and agencies from participation in the provisions of Iowa Code section 8A.201, and more closely detail the purposes of information technology operational standards.

Any interested party may make written or oral comments on the proposed amendments on or before August 19, 2008. Such written comments should be directed to Wes Hunsberger or Patricia Lantz, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319, or may be sent by fax to (515)281-6401 or by E-mail to wes.hunsberger@iowa.gov or patricia.lantz@iowa.gov.

These amendments are intended to implement Iowa Code sections 8A.201 and 8A.206.

The following amendments are proposed.

ITEM 1. Amend rule ~~11—25.1(8A)~~, definition of "Participating agency," as follows:

"Participating agency" means all executive branch agencies except ~~the following:~~ those listed in Iowa Code section 8A.201(4), or as otherwise provided by law.

- ~~1. — The state board of regents and institutions operated under the authority of the state board of regents.~~
- ~~2. — The public broadcasting division of the department of education.~~
- ~~3. — The state department of transportation mobile radio network.~~
- ~~4. — The department of public safety law enforcement communications systems and security systems in use for the legislature.~~
- ~~5. — The Iowa telecommunications and technology commission, established in Iowa Code chapter 8D, with respect to information technology that is unique to the Iowa communications network.~~
- ~~6. — The Iowa lottery authority.~~
- ~~7. — A judicial district department of correctional services established pursuant to Iowa Code section 905.2.~~

ITEM 2. Amend subrule 25.5(5) as follows:

25.5(5) Goals for information technology standards. The underlying purpose of operational standards involving information technology shall be one or more of the following:

- a. To promote consistency in the automation of ~~the state's common infrastructure~~ systems;
- b. To eliminate duplicative development efforts ~~by multiple state government entities~~;
- c. To ensure continuity of ongoing state operations;
- d. To promote administrative efficiencies relating to development and maintenance of ~~common data systems~~; ~~and~~
- e. To enable the state to realize its full purchasing power from the use of a statewide, enterprise approach to the selection of technology solutions; and
- f. To enhance security of systems and protection of personal information.

CIVIL REPARATIONS TRUST FUND

Pursuant to Iowa Administrative Code 361—subrule 12.2(1), the Executive Council gives Notice that the Civil Reparations Trust Fund balance as of June 30, 2008, is approximately \$12,076.00. Money in the Civil Reparations Trust Fund is available for use for indigent civil litigation programs or insurance assistance programs. Application forms are available in the office of the State Treasurer by contacting GeorgAnna Madsen, Executive Secretary, State Capitol Room 114, Des Moines, Iowa 50319; telephone (515)281-5368. Applications must be filed on the thirtieth day after the date of publication of this Notice in the Iowa Administrative Bulletin, or on the thirtieth day after the date affixed to the Notice sent by first-class mail, whichever is later. Any person/company that would like to receive future notices should make request in writing to the above-mentioned contact. Rules regarding the Civil Reparations Trust Fund can be found at 361 IAC Chapter 12.

ARC 7039B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 61, "Water Quality Standards," Iowa Administrative Code.

The proposed amendment will provide water quality certification pursuant to Section 401 of the federal Clean Water Act (33 U.S.C. Section 1341) for the reissued Regional Permit 7 (RP 7).

Section 404 of the Clean Water Act requires a permit from the Corps of Engineers (Corps) for the discharge of dredged or fill materials into the nation's waters. Section 401 of the Act requires that before the Corps can issue a Section 404 permit, the state water quality agency must certify that the proposed activity will not violate state water quality standards.

Section 404 authorizes the Corps to issue general permits on a state, regional or nationwide basis for categories of activities where such activities will have minimal adverse effects. The Corps has used its general permit authority to issue a number of general permits on a nationwide basis. General permits, including regional permits, can be issued for a period not exceeding five years, and a state water quality agency must provide Section 401 certification for a Section 404 general permit before the general permit is valid for that particular state. The Commission previously provided Section 401 certification for RP 7. These permits are referenced in 61.2(2)"h."

The Corps issued the Public Notice for the reissuance of RP 7 on February 4, 2008, and it expired on March 4, 2008. A copy of the February 4, 2008, Public Notice can be obtained from the Department of Natural Resources (DNR). This amendment would provide Section 401 certification for the modified RP 7.

Any interested person may file written comments on the proposed amendment on or before August 19, 2008. Written comments or questions regarding the proposed action should be directed to Christine Schwake, Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; telephone (515)281-6615; fax (515)281-8895; E-mail christine.schwake@dnr.iowa.gov.

Oral or written comments will also be accepted at a public hearing to be held on August 19, 2008, at 1 p.m. in the Fifth Floor East Conference Room of the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa.

The Commission will consider all comments received during the public comment period before taking final action.

This amendment may have an impact on small businesses.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

The following amendment is proposed.

Amend paragraph **61.2(2)“h”** as follows:

h. This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567—Chapters 70, 71, and 72, the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567—Chapters 70, 71, and 72 and this policy. The repair and maintenance of a drainage district ditch as defined in 567—70.2(455B,481A) will not be considered a violation of the antidegradation policy for the purpose of implementing Title IV of these rules. United States Army Corps of Engineers (Corps) nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, and 50 as well as Corps regional permits 7, 33, and 34 as promulgated ~~March 19, 2007~~ October 29, 2008, are certified pursuant to Section 401 of the Clean Water Act subject to the following Corps regional conditions and the state water quality conditions:

(1) Side slopes of a newly constructed channel will be no steeper than 2:1 and planted to permanent, perennial, native vegetation if not armored.

(2) Nationwide permits with mitigation may require recording of the nationwide permit and pertinent drawings with the registrar of deeds or other appropriate official charged with the responsibility for maintaining records of title to, or interest in, real property and may also require the permittee to provide proof of that recording to the Corps.

(3) Mitigation shall be scheduled prior to, or concurrent with, the discharge of dredged or fill material into waters of the United States.

(4) For discharges of dredged or fill material resulting in the permanent loss of more than 1/10 acre of waters of the United States (including jurisdictional wetlands), a compensatory mitigation plan to offset those losses will be required. In addition, a preconstruction notice to the Corps of Engineers in accordance with general condition 27 will be required.

(5) For newly constructed channels through areas that are unvegetated, native grass filter strips or a riparian buffer with native trees or shrubs a minimum of 35 feet wide from the top of the bank must be planted along both sides of the new channel. A survival rate of 80 percent of desirable species shall be achieved within three years of establishment of the buffer strip.

(6) For single-family residences authorized under nationwide permit 29, the permanent loss of waters of the United States (including jurisdictional wetlands) must not exceed 1/4 acre.

(7) For nationwide permit 46, the discharge of dredged or fill material into ditches that would sever the jurisdiction of an upstream water of the United States from a downstream water of the United States is not allowed.

(8) For projects that impact fens, bogs, seeps, or sedge meadows, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).

(9) For nationwide permits when the Corps' district engineer has issued a waiver to allow the permittee to exceed the limits of the nationwide permit, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition). Written verification by the Corps or 401 certification by the state is required for activities covered by these permits as required by the nationwide permit or the Corps, and the activities are allowed subject to the terms and conditions of the nationwide and regional permits. The department will maintain and periodically update a guidance document listing special waters of concern. This document will be provided to the Corps for use in determining whether preconstruction notices should be provided to the department and other interested parties prior to taking action on applications for projects that would normally be covered by a nationwide or regional permit and not require preconstruction notice under nationwide permit conditions.

ARC 7038B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455C.9, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 107, "Beverage Container Deposits," Iowa Administrative Code.

This amendment is being proposed to establish criteria for awarding grants to independent redemption centers for making improvements to such centers. The grant program is the result of recently passed legislation, 2008 Iowa Acts, House File 2700, sections 78 and 88, that dedicates \$1 million from the general fund of the state to an independent redemption center grant fund for improvements to independent redemption centers in existence prior to July 1, 2008. Up to 3.5 percent of the fund can be used to pay administrative costs relating to the management of the grant program.

Any interested person may make written suggestions or comments pertaining to the proposed amendment on or before 4:30 p.m. on August 19, 2008. Such written materials should be directed to Bill Blum, Land Quality Bureau, Iowa Department of Natural Resources, 502 East 9th Street, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-8895; or E-mail bill.blum@dnr.iowa.gov. Persons wishing to convey their views orally should contact Bill Blum by telephone at (515)281-8176.

When submitting comments, stakeholders are encouraged by the Department to utilize the following guidelines. These guidelines aid the Department in accurately understanding and creating a record of your input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments on behalf of a business or organization or as an individual.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language to improve the specific rule(s) and explain why.

A public hearing will be held on August 19, 2008, at 2 p.m. in the Fifth Floor West Conference Room of the Wallace State Office Building, 502 East Ninth Street, Des Moines, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources to advise of specific needs.

It is the current intent of the Department to file the final rule making as an Adopted and Filed Emergency After Notice in compliance with Iowa Code section 17A.5(2)"b"(2).

This amendment is intended to implement 2008 Iowa Acts, House File 2700, sections 78 and 88.

The following amendment is proposed.

Adopt the following **new** rule 567—107.16(82GA, HF2700):

567—107.16(82GA, HF2700) Independent redemption center grant program. An independent redemption center grant program is established in the department, with funds provided from the independent redemption center grant fund established in the state treasury and under the authority of the natural resources department. The purpose of the program is to award grants for improvements to independent redemption centers. No grant

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

shall exceed \$15,000 for any redemption center. The department shall issue awards in accordance with the availability of moneys in the independent redemption center grant fund.

107.16(1) Goals. The goals of the program are to enable independent redemption centers to become more:

a. Sustainable. This goal includes measures that help independent redemption centers continue to operate and succeed. Such measures include, but are not limited to, physical improvements to sites owned by independent redemption centers or equipment purchases that can help reduce operational costs.

b. Convenient. This goal includes measures that help independent redemption centers better serve customers.

c. Accessible. This goal includes measures that enable customers to more easily use independent redemption centers' services.

107.16(2) Application. The department shall develop an application for redemption centers to complete and submit to the department in order to apply for a grant under this program. The application shall include, but not be limited to:

a. An explanation of how the grant will enable the redemption center to become more sustainable, convenient or accessible.

b. A statement and substantiation of the specific amount of grant funds that will be expended to pay for the improvement or improvements.

c. If the applicant's beverage container redemption function is one part of a business enterprise that includes one or more other commercial activities that are not beverage container redemption, a clear explanation must be provided as to how the proposed grant-funded improvement or improvements will be implemented exclusively for the beverage container redemption function.

107.16(3) Eligibility. To be eligible for the independent redemption center grant program, a redemption center must meet both of the following criteria:

a. Have no affiliation with or in any way be a subsidiary of a dealer, a distributor, or a manufacturer.

b. Have been in business prior to July 1, 2008. A redemption center registered with the department as an approved redemption center, unapproved redemption center, redemption center for a dealer or registered redemption center prior to July 1, 2008, meets this criterion. A redemption center that was not registered with the department prior to July 1, 2008, must provide documentation that the redemption center was in business prior to July 1, 2008.

107.16(4) Evaluation of applications. The department will evaluate all eligible grant applications submitted in the manner prescribed in the application. The applications will be evaluated based on their compatibility with the goals of the program.

a. Physical improvements to a site owned by an independent redemption center or equipment purchases that will improve the sustainability, convenience, or accessibility of a redemption center will receive highest consideration. Although a cash match is not required, applications that include statements of cash match will be evaluated more favorably.

b. Labor costs associated with improving the sustainability, convenience or accessibility of a redemption center will receive secondary consideration.

c. Direct cash payments for general compensation will not be considered.

107.16(5) Grant denial. An application may be denied for reasons that include, but are not limited to, the following:

a. The applicant does not meet the eligibility requirements set forth in subrule 107.16(3).

b. The applicant does not provide sufficient information requested for the application proposal.

c. The project is not consistent with the goals of the program.

d. Funds are insufficient to award financial assistance to all qualified applicants.

e. The applicant has not met contractual obligations of previous grant awards.

f. The department received the application after the deadline stated in the application.

107.16(6) Grant contracts, reporting and accountability. Each grant awarded under this program shall be conveyed by means of a contract with each grantee. The department shall develop and provide the form of the grant contracts, which shall include, at a minimum:

a. A description and explanation of the improvement or improvements being funded, including a statement of cash match, if any, that will be expended by the grantee.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

- b. The dollar amount of the grant award and the manner in which funds will be transferred.
- c. The requirement for the grantee to submit to the department a report following the implementation of the funded improvement or improvements. The report shall state how the grant funds, and cash match, if any, were expended in the execution of the contract and shall include copies of any supporting documents.
- d. The department's remedies in the event of a grantee's breach of contract.

ARC 6995B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 217.6, 234.6, 239B.4(4), 249A.4, and 514I.5, the Department of Human Services proposes to amend Chapter 58, "Emergency Assistance," Iowa Administrative Code.

These amendments implement a new division intended to allow the Department to deliver services more effectively during or following a disaster emergency declared by state or federal officials. This division includes rules that temporarily supersede departmental rules that would otherwise apply. The temporary rules are intended to meet special circumstances that arise from each unique disaster emergency, with the primary purpose of reducing barriers to accessing and receiving services that may result from the disaster emergency. The rules are time-limited and specify the period in which they will be in effect.

Some rules are limited in geographic scope to correspond with specific locales designated as disaster areas by state or federal officials. Others are applied statewide because the disaster emergency is of such a nature or magnitude that doing so allows the Department to most effectively allocate resources and deliver services. Rules implemented under this division must be consistent with applicable federal requirements, including any waivers that may be granted due to the disaster emergency.

These amendments do not provide for waivers in specified situations since the changes benefit recipients in the programs affected.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6994B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendments on or before August 20, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapters 234, 237A, 239B, 249, 249A, 249J, and 514I.

ARC 7017B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments change the provisions for additional Medicaid reimbursement for nursing facilities related to the facility's performance as measured by ten indicators of quality care, as directed by 2008 Iowa Acts, Senate File 2425, section 33. This legislation requires the following changes:

- The amount used to calculate the accountability measure add-on is reduced to 80 percent of the sum of the direct care patient-day-weighted median and the non-direct care patient-day-weighted median (down from 100 percent).
- The additional payment for accountability measures will be withheld from the facility's weekly payment remittance and will instead be made through an add-on to each claim at the end of the state fiscal year (June 30).
- A facility's accountability measure add-on will be reduced by 25 percent for each deficiency cited resulting in actual harm to a resident at a scope and severity level of G pursuant to the federal certification guidelines. If the facility fails to cure any level G deficiency cited within the time required by the Department of Inspections and Appeals, the accountability measure add-on will be reduced to \$0.
- A facility will forfeit its accountability measure add-on if the facility receives a deficiency due to instances of actual harm or immediate jeopardy at a scope and severity level of H or higher pursuant to the federal certification guidelines.

In the Centers for Medicare and Medicaid Services' nursing home survey and certification system, a level G deficiency is an isolated instance of actual harm to a resident that does not constitute "immediate jeopardy" to the resident's health or safety. A level H deficiency is a pattern of incidents of actual harm of the same severity. Higher levels include I, widespread instances of actual harm but no immediate jeopardy; J, an isolated instance of immediate jeopardy to a resident's health or safety; K, a pattern of such instances; and L, widespread instances of immediate jeopardy. Survey findings at level F (widespread instances of deficiencies that caused no actual harm but had a potential to cause more than minimal harm) and levels H through L indicate a substandard quality of care if the requirement that is not met falls under federal regulations on resident behavior, quality of life, or quality of care.

In addition, these amendments make a technical change to subrule 81.36(5) to update the name of the Iowa Board of Nursing Home Administrators.

These amendments do not provide for waivers in specified situations, since these are statutory provisions.

These amendments were also Adopted and Filed Without Notice and are published herein as **ARC 7016B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendments on or before August 20, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.4 and 2001 Iowa Acts, chapter 192, section 4, as amended by 2008 Iowa Acts, Senate File 2425, section 33.

ARC 7015B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 514I.5, the Department of Human Services proposes to amend Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," Iowa Administrative Code.

The proposed amendments:

- Add new language regarding the recovery of HAWK-I overpayments and rescind two subrules to give the Department a better legal basis for recovery when eligibility was incorrectly provided due to client error.
- Clarify the length of the enrollment period for a child added to a family's existing enrollment. The child is enrolled for the term of the family's existing enrollment.
- Establish the first month for which a premium will be due as the third month following the month of the initial eligibility decision.
- Add language to allow electronic signatures to be accepted when the Department has the necessary technology.

Currently, families who are newly approved for HAWK-I owe a premium beginning with the month immediately following the month in which the eligibility decision was made. When that decision is made late in a month, not only does the family owe a premium for the next month but also for the second month following the eligibility decision.

For example, if an application is approved on June 27, the first month for which a premium is due is July. The July premium is due July 14, or ten working days following the date of the eligibility decision. Also, the family's ongoing premiums are due by the tenth day of the month before the month of coverage; so the family's August premium is due July 10. Not only is it confusing to families to have the premium for August due before the premium for July, many families miss the fact that two premiums are due and only send in one. This confusion often results in denial of the application for failure to pay premiums. The proposed amendment will establish a more reasonable schedule of premium due dates for initial applications.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before August 20, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapter 514I.

The following amendments are proposed.

ITEM 1. Amend paragraphs **86.3(4)"a"** and **"b"** as follows:

a. Medicaid applications referred to the HAWK-I program. When the family has applied for Medicaid first and the department ~~local office~~ makes a referral to the third-party administrator, the date the Medicaid application was originally filed with the department shall be the filing date.

b. Electronic applications. When an application is submitted electronically to the third-party administrator, the application is considered filed on the date the third-party administrator receives Form 470-4016, HAWK-I Electronic Application Summary and Signature, containing a legible signature. When the department has the technology to allow electronic signatures, the electronic signature shall be accepted without the need for an additional signature on a printed document.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Rescind and reserve subrule **86.3(11)**.

ITEM 3. Adopt the following **new** paragraph **86.6(2)“c”**:

c. The child is added to an existing enrollment. When a family requests to add an eligible child, the child shall be enrolled for the months remaining in the current enrollment period.

ITEM 4. Rescind subrule 86.8(3) and adopt the following **new** subrule in lieu thereof:

86.8(3) Due date.

a. *Payment upon initial application.* “Initial application” means the first program application or a subsequent application that is not a renewal. Upon approval of an initial application, the first month for which a premium is due is the third month following the month of decision. The due date of the first premium shall be the tenth day of the second month following the month of decision.

b. *Payment upon renewal.* “Renewal” means any application used to establish ongoing eligibility, without a break in coverage, for any enrollment period subsequent to an enrollment period established by an initial application.

(1) Upon approval of a renewal, the first month for which a premium is due is the first month of the enrollment period. The premium for the first month of the enrollment period shall be due by the tenth day of the month before the month of coverage or the tenth business day following the date of decision, whichever is later.

(2) All premiums due must be paid before the child will be enrolled for coverage. When the premium is received, the third-party administrator shall notify the plan of the enrollment.

c. *Subsequent payments.* All subsequent premiums are due by the tenth day of each month for the next month’s coverage and must be postmarked no later than the last day of the month before the month of coverage. Failure to pay the premium by the last day of the month before the month of coverage shall result in disenrollment from the plan. Premiums may be paid in advance (e.g., on a quarterly or semiannual basis) rather than a monthly basis.

ITEM 5. Amend subrule 86.8(4) as follows:

86.8(4) Reinstatement. A child may be reinstated once per enrollment period when the family fails to pay the premium by the last day of the month ~~before~~ for the month of next month’s coverage. ~~However, If the premium must be paid or is subsequently received, coverage will be reinstated if the premium was postmarked within or otherwise paid in the calendar month immediately following the month of nonpayment and the premium must be paid in full in order for reinstatement to occur~~ disenrollment.

ITEM 6. Rescind and reserve subrule **86.10(7)**.

ITEM 7. Adopt the following **new** rule 441—86.19(514I):

441—86.19(514I) Recovery.

86.19(1) Definitions.

“*Administrative error*” means an action attributed to the department or to the HAWK-I third-party administrator that results in incorrect payment of benefits, including premiums paid to a health plan, due to one or more of the following circumstances:

1. Misfiled or lost form or document.
2. Error in typing or copying.
3. Computer input error.
4. Mathematical error.
5. Failure to determine eligibility correctly when all essential information was available to the HAWK-I third-party administrator.
6. Failure to request essential verification necessary to make an accurate eligibility determination.
7. Failure to make timely revision in eligibility following a change in policy requiring application of the policy change as of a specific date.
8. Failure to issue timely notice to cancel benefits that results in benefits continuing in error.
9. Failure of the department to provide correct information to the HAWK-I third-party administrator regarding a child’s Medicaid eligibility.

HUMAN SERVICES DEPARTMENT[441](cont'd)

“*Client error*” means an action attributed to the enrollee that results in incorrect payment of benefits, including premiums paid to a health plan, because the enrollee or the enrollee’s representative:

1. Failed to disclose information or gave a false or misleading statement, oral or written, regarding income or another eligibility factor; or

2. Failed to timely report a change as defined in rule 441—86.10(514I).

86.19(2) *Amount subject to recovery from the enrollee or representative.* The department shall recover from the enrollee or the enrollee’s representative the amount of premiums incorrectly paid to a health plan on behalf of the enrollee due to client error, minus any premium payments made by the enrollee, in accordance with 441—Chapter 11.

a. Premiums incorrectly paid to a health plan on behalf of an enrollee due to an administrative error are not subject to recovery from the enrollee.

b. Payments made by a health plan to a provider of medical services are not subject to recovery from the enrollee regardless of the cause of the error.

86.19(3) *Notification.* The enrollee shall be promptly notified when it is determined that funds were incorrectly paid due to a client error. Notification shall include:

a. The name of the person for whom funds were incorrectly paid;

b. The period during which the funds were incorrectly paid;

c. The amount subject to recovery; and

d. The reason for the incorrect payment.

86.19(4) *Recovery.* Recovery shall be made from the enrollee or from the enrollee’s representative (i.e., the parent, guardian, or other responsible person) when the representative completed the application and had responsibility for reporting changes. The enrollee or representative shall repay to the department the funds incorrectly expended on behalf of the enrollee. Recovery may come from income, income tax refunds, or lottery winnings of the enrollee or representative.

86.19(5) *Appeals.* The enrollee shall have the right to appeal a decision to recover benefits under the provisions of 441—Chapter 7.

ARC 6996B

MANAGEMENT DEPARTMENT[541]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 8.6 as amended by 2008 Iowa Acts, Senate File 2400, section 29, the Department of Management hereby gives Notice of Intended Action to adopt new Chapter 12, “DAS Customer Council,” Iowa Administrative Code.

The purpose of new Chapter 12 is to establish a customer council to oversee the operation of and the fees charged by the Department of Administrative Services for services defined by the council as a utility service for state agencies. The proposed rules establish the customer council as required by 2008 Iowa Acts, Senate File 2400, and define membership, method of appointment and organizational structure.

Any interested person may make written suggestions or comments on the proposed amendment on or before September 5, 2006. Such written materials should be sent to Cynthia Axne, Iowa Department of Management, State Capitol Building, Des Moines, Iowa 50319; by facsimile to (515)281-4001; or by electronic mail to cynthia.axne@iowa.gov.

A public hearing will be held on September 5, 2008, at 10 a.m. in Room G14, State Capitol Building, Des Moines, Iowa, at which time comments may be submitted orally or in writing. Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact Stephen Ford at (515)281-3705 to advise of any specific needs.

MANAGEMENT DEPARTMENT[541](cont'd)

This amendment is intended to implement Iowa Code Supplement section 8.6 as amended by 2008 Iowa Acts, Senate File 2400, section 29.

The following amendment is proposed.

Adopt the following **new** 541—Chapter 12:

CHAPTER 12
DAS CUSTOMER COUNCIL

541—12.1(82GA,SF2400) Definitions.

“*DAS*” means the department of administrative services created by Iowa Code chapter 8A.

“*DAS customer council*” means a group responsible for overseeing operations with regard to a service funded by fees paid by a governmental entity or subdivision receiving the service when the department and DAS have determined that DAS shall be the sole provider of that service.

“*Department*” or “*DOM*” means the department of management created by Iowa Code chapter 8.

“*Economies of scale*” means mass purchasing of goods or services, which results in lower average costs.

“*Large agency*” means a state agency with more than 700 permanent employees.

“*Leadership function*” means a service provided by the department and funded by a general appropriation. Leadership functions typically relate to development of policy and standards and are appropriate when standardization is required and the ultimate customer is the taxpayer.

“*Marketplace service*” means a service that the department is authorized to provide, but which governmental entities may provide on their own or obtain from another provider of the service.

“*Medium-sized agency*” means a state agency with 70 to 700 permanent employees.

“*Quorum*” means the presence of no less than a simple majority (50 percent plus 1) of the members eligible to vote.

“*Small agency*” means a state agency with fewer than 70 permanent employees.

“*Utility service*” means a service funded by fees paid by the governmental entity receiving the service and for which DAS is the sole provider of the service.

541—12.2(82GA,SF2400) Purpose. The purpose of this chapter is to establish a customer council to oversee operations with regard to services provided when the department has determined that DAS shall be the sole provider of a service and to ensure that DAS meets the needs of affected governmental entities and subdivisions and those citizens served.

541—12.3(82GA,SF2400) Utility determination. Services for which the department has determined that DAS shall be the sole provider are designated “utilities” as part of entrepreneurial management in Iowa state government. Customers may choose the amount of service they purchase, but must buy from the single source. Utilities are those services for which a monopoly structure makes sense due to economies of scale. The process for determining whether DAS shall be the sole provider of a service shall include consideration of economic factors, input from the customer council and input from upper levels of the executive branch.

541—12.4(82GA,SF2400) Customer council established. In order to ensure that DAS utilities provide effective, efficient, and high-quality services that benefit governmental entities and the citizens they serve, this chapter establishes a customer council for services identified as utilities.

541—12.5(82GA,SF2400) Customer council membership. Customer council membership shall consist of the chairperson and vice chairperson, 11 state agency representatives, a judicial branch representative overseeing DAS services provided to the judicial branch, a legislative branch representative overseeing DAS services provided to the legislative branch, and nonvoting ex-officio members.

12.5(1) Method of appointment of members.

a. Executive branch agency representation. The customer council will include four members from large agencies, four members from medium-sized agencies and three members from small agencies.

MANAGEMENT DEPARTMENT[541](cont'd)

(1) Selection. The individual nominated by an agency to become a customer council member shall be the individual the agency determines is most appropriate to provide guidance. Each agency may nominate one representative for the customer council. The department shall select customer council members from the representatives nominated by the agencies in that group.

(2) Review. The department shall review representation on the customer council prior to August 1 of each year for the terms ending August 31 of that year and select customer council members as in subparagraph (1) to fill vacancies caused by expired terms. The department will periodically review the definition of large, medium-sized and small agencies based on the number of permanent employees of the agencies in Iowa state government and make adjustments accordingly.

(3) Vacancies. If a vacancy occurs, the department shall fill the vacancy.

b. *Legislative and judicial branch representation.* If the service to be provided may also be provided to the judicial branch and legislative branch, then the chief justice of the Supreme Court and the legislative council may, in their discretion, each appoint a member to the customer council.

c. *Ex-officio member(s).* Ex-officio members shall not vote on the proceedings of the customer council, but shall provide input to the council based on their area of expertise. Each ex-officio member shall be approved by a majority of the voting members of the customer council. An ex-officio member may be recommended to the customer council by:

(1) A group representing agencies using a service overseen by the customer council, and

(2) Any other group approved by the customer council.

12.5(2) Membership changes. As utility services and customer groups change, the department may add members to provide for equitable representation.

12.5(3) Term of membership. Each member will serve a two-year term.

a. Initial appointments shall be for staggered terms of one or two years as set by the department.

b. Initial membership terms shall begin by August 1, 2008.

541—12.6(82GA,SF2400) Organization of customer council. The operations of the customer council shall be governed by a set of bylaws as adopted by the customer council. Bylaws shall address the following issues.

12.6(1) Member participation. Each member is expected to attend and actively participate in meetings. Participation will include requesting input and support from the group each member represents.

a. Substitutes for members absent from meetings will not be allowed; however, members may attend by telephone or other electronic means approved by the customer council.

b. Upon the approval of the customer council, an alternate member may be selected by an agency, group or union that provides a representative to the customer council to participate in customer council meetings and vote in place of the representative when the representative is unable to participate.

12.6(2) Voting. A quorum is required for a customer council vote.

a. Eligible members may vote on all issues brought before the group for a vote. Members may be present to vote during a meeting in person, by telephone or other electronic means approved by the customer council.

b. Each member, other than the chairperson, vice chairperson and ex-officio members, has one vote. Designated alternates may only vote in the absence of the representative from their organization. A simple majority of the members voting shall determine the outcome of the issue being voted upon.

c. Customer council bylaws may be amended by a simple majority vote of all members.

12.6(3) Officers. The officers of the customer council shall be the chairperson and vice chairperson. The director of the department of management will serve as chairperson and the director of the department of administrative services will serve as vice chairperson. The chairperson and vice chairperson shall not be voting members.

12.6(4) Duties of officers.

a. The chairperson shall preside at all meetings of the customer council.

b. The vice chairperson shall assist the chairperson in the discharge of the chairperson's duties as requested and, in the absence or inability of the chairperson to act, shall perform the chairperson's duties.

12.6(5) Committees.

a. The chairperson may authorize or dissolve committees as necessary to meet the needs of the customer council.

MANAGEMENT DEPARTMENT[541](cont'd)

b. Members of the customer council and individuals who are not members of the customer council may be appointed by the chairperson to serve on committees.

c. Committees shall provide feedback to the chairperson and the customer council at the council's request.

d. Committees shall meet, discuss, study and resolve assigned issues as needed.

12.6(6) Administration. DAS shall provide staff support to assist the chairperson with the following administrative functions:

a. Keeping the official current and complete books and records of the decisions, members, actions and obligations of the customer council;

b. Coordinating meeting notices and locations, keeping a record of names and addresses, including E-mail addresses, of the members of the customer council; and

c. Taking notes at the meetings and producing minutes that will be distributed to all members.

12.6(7) Open records. Customer council books and records are subject to the open records law as specified in Iowa Code chapter 22.

12.6(8) Meetings. Customer council meetings are subject to the open meetings law as specified in Iowa Code chapter 21. The customer council is responsible for the following:

a. Determining the frequency and time of council meetings.

b. Soliciting agenda items from the members in advance of an upcoming meeting.

c. Sending electronic notice of meetings, including date, time and location of the meeting, at least one week prior to the meeting date.

d. Providing an agenda, including those items requiring action, at least two days prior to the meeting. The agenda should also include any information necessary for discussion at the upcoming meeting.

e. Conducting meetings using the most recent version of Robert's Rules of Order, revised.

541—12.7(82GA,SF2400) Powers and duties of customer council.

12.7(1) Approval of business plans. The customer council shall, on an annual basis, review and recommend action on business plans submitted by DAS for performance of the services the customer council oversees. Business plans shall include levels of service, service options, investment plans, and other information.

12.7(2) Complaint resolution. The customer council shall approve the internal procedure for resolution of complaints concerning the utility services provided by DAS. The procedure shall include, at a minimum, the following provisions:

a. A definition of "complaint," which shall convey that this resolution process does not take the place of any other formal complaint, grievance or appeal process required by statute or rule.

b. Receipt and resolution of complaints by DAS providing the service.

c. Standards for prompt complaint resolution.

d. Provisions to aggregate, analyze and communicate issues and outcomes in a manner that contributes to overall organizational improvement.

e. Identification of the chairperson and vice chairperson's decision as the final step in the process.

12.7(3) Rate setting. The customer council shall approve the rate methodology and the resulting rates for the services that the customer council oversees. Rates shall be established no later than September 1 of the year preceding the rate change. Established rates may be amended after September 1 upon recommendation by the department in consultation with DAS and affirmative vote by the customer council.

12.7(4) Biennial review. Every two years the customer council shall review the decision made by the department that DAS be the sole provider of a service and make recommendations regarding that decision.

541—12.8(82GA,SF2400) Customer input. The department shall establish procedures to provide for the acceptance of input from affected governmental entities. Input may take various forms, such as unsolicited comments, response to structured surveys, or an annual report on service requirements.

541—12.9(82GA,SF2400) Annual service listing. DAS shall annually prepare a listing separately identifying services determined by the department and DAS to be leadership functions, marketplace services, and

MANAGEMENT DEPARTMENT[541](cont'd)

utilities. The listing shall be completed no later than September 1 of the fiscal year preceding the proposed effective date of the change.

These rules are intended to implement Iowa Code Supplement section 8.6 as amended by 2008 Iowa Acts, Senate File 2400, section 29.

ARC 7037B

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 15, "General License Regulations," Iowa Administrative Code.

This amendment to subparagraph 15.6(3)"a"(22) is required as a result of the enactment of 2008 Iowa Acts, House File 2612, section 21, which amends Iowa Code Supplement section 716.8. The legislation requires that the Department establish a violation point value for a violation and conviction of 2008 Iowa Acts, House File 2612, section 21, for a person who is convicted of trespass while hunting deer.

Any person may make written comments on this proposed amendment on or before August 19, 2008. Such comments and written material should be directed to the Law Enforcement Bureau, Wallace State Office Building, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034. Persons who wish to convey their comments orally should contact Steve Dermand of the Law Enforcement Bureau at (515)281-4515.

A public hearing will be held on August 19, 2008, at 9 a.m. in the Fifth Floor East Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who attend the public hearing and have special needs such as hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code section 456A.25.

The following amendment is proposed.

Amend subparagraph **15.6(3)"a"(22)** as follows:

(22) Any violation of Iowa Code Supplement section ~~716.7~~ 716.8 as amended by 2008 Iowa Acts, House File 2612, section 21, while hunting deer.

ARC 7036B

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 85, "Trotlines," Iowa Administrative Code.

The proposed amendment requires all trotlines to be removed from shore when they are not being actively fished.

Any interested person may make written suggestions or comments on the proposed amendment on or before September 12, 2008. Such written materials should be directed to Marion Conover, Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-6794; or E-mail Marion.Conover@dnr.iowa.gov. Persons who wish to convey their views orally should contact the Fisheries Bureau at (515)281-5208 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be a public hearing on August 22, 2008, at 3 p.m. in the Fifth Floor Conference Room, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa. At the public hearing, persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.74.

The following amendment is proposed.

Amend rule 571—85.1(481A) as follows:

571—85.1(481A) Trotlines ~~where permitted~~.

85.1(1) *Where permitted.* It shall be lawful to use trotlines or throw lines in all rivers and streams of the state, except in Mitchell, Howard, Winneshiek, Allamakee, Fayette, Clayton, Delaware, Dubuque, and Jackson Counties. Trotlines or throw lines may be used in the above nine counties in the following stream segments: Maquoketa River, mouth to Backbone State Park dam; North Fork Maquoketa River, mouth to Jones-Dubuque County line; Turkey River, mouth to the Elkader dam; and Upper Iowa River, mouth to the first dam upstream in Winneshiek County.

85.1(2) *Removal of lines.* All trotlines and parts thereof shall be removed from the shore when they are not being actively fished. A trotline shall be considered actively fished if at least once daily the trotline is left with at least one baited hook in the water.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.74.

ARC 7035B**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 88, "Fishing Tournament," Iowa Administrative Code.

The proposed amendment establishes a \$25 administrative fee for fishing tournament permits.

Any interested person may make written suggestions or comments on the proposed amendment on or before September 12, 2008. Such written materials should be directed to Marion Conover, Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-6794; or E-mail Marion.Conover@dnr.iowa.gov. Persons who wish to convey their views orally should contact the Fisheries Bureau at (515)281-5208 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be a public hearing on August 22, 2008, at 3 p.m. in the Fifth Floor Conference Room, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa. At the public hearing, persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code sections 462A.16, 481A.38, and 455A.5(6)"e."

The following amendment is proposed.

Amend rule 571—88.2(462A,481A) as follows:

571—88.2(462A,481A) Permit required. A permit issued by the department of natural resources is required to conduct a fishing tournament on public waters under the jurisdiction of the state. The administrative fee for each fishing tournament permit is \$25. Fishing clinics and youth fishing days are excluded.

ARC 7009B**NURSING BOARD[655]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 6, "Nursing Practice for Registered Nurses/Licensed Practical Nurses," Iowa Administrative Code.

These amendments prohibit a registered nurse (RN) and an advanced registered nurse practitioner (ARNP), with the exception of a certified registered nurse anesthetist (CRNA), from administering anesthetic agents, e.g., Propofol, Brevitol, Ketamine and Etomidate, during any operative, invasive or

NURSING BOARD[655](cont'd)

diagnostic procedure in any type of setting. These amendments set forth the exceptions and requirements which allow an RN and an ARNP to administer anesthetic agents.

Any interested person may make written comments or suggestions regarding the proposed amendments on or before September 10, 2008. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

There will be a public hearing on September 10, 2008, at 6 p.m. in the Des Moines West Room, Holiday Inn, 1050 6th Avenue, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapter 152.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 6.2(6):

6.2(6) A registered nurse (RN) and an advanced registered nurse practitioner (ARNP), with the exception of a certified registered nurse anesthetist (CRNA), shall not administer anesthetic agents, e.g., Propofol, Brevitol, Ketamine and Etomidate, during any operative, invasive or diagnostic procedure in any type of health care setting. Subrule 6.4(3) lists the exceptions.

ITEM 2. Adopt the following **new** subrules 6.4(3) and 6.4(4):

6.4(3) An RN and an ARNP may administer anesthetic agents, e.g., Propofol, Brevitol, Ketamine and Etomidate, in the following situations:

a. When under the direction of a CRNA, anesthesiologist, or an oral and maxillofacial surgeon (650—Chapter 29) who is physically present in the procedure room at the time of medication administration and for the duration of the anesthetic agent's effectiveness.

b. When administering these medications as part of a clinical experience as a student nurse anesthetist in an advanced educational program.

c. When administering these medications to intubated, ventilated patients in a critical care setting.

d. When assisting an individual qualified in advanced airway management for rapid sequence emergency intubation.

6.4(4) An RN and an ARNP, with the exception of a CRNA, who administer anesthetic agents, as outlined in 6.4(3) of these rules, shall meet the following requirements:

a. Current Basic Life Support (BLS), Advanced Cardiac Life Support (ACLS) and Pediatric Advanced Life Support (PALS) certification.

b. Annual education in the administration of anesthetic agents that includes, but is not limited to:

(1) Effects, side effects and contraindications of each drug to be administered.

(2) Proper dosing of the medication to be administered.

(3) Potential complications of each drug and combination of drugs.

(4) Assessment of emergency situations and the appropriate nursing interventions.

ARC 6993B

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 546.2, the Professional Licensing and Regulation Bureau hereby gives Notice of Intended Action to amend Chapter 7, "Contested Cases," and Chapter 8, "Denial of

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

Issuance or Renewal of License for Nonpayment of Child Support or Student Loan,” Iowa Administrative Code.

These amendments implement changes required by the passage of 2008 Iowa Acts, Senate File 2428, which was signed by the Governor on May 15, 2008. Additional changes update citations to the Rules of Civil Procedure and change the use of the terms “registrant” to “licensee” and “certificate of registration” to “license.”

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Consideration will be given to all written suggestions or comments received on or before August 19, 2008, concerning the proposed amendments. Comments should be addressed to Glenda Loving, Professional Licensing and Regulation Bureau, 1920 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to glenda.loving@iowa.gov.

These amendment are intended to implement 2008 Iowa Acts, Senate File 2428.

The following amendments are proposed.

ITEM 1. Amend rule 193—7.43(252J) as follows:

193—7.43(252J) ~~Certificates of noncompliance~~ Suspension or revocation of a license upon receipt of certificate of noncompliance—child support. The board shall suspend or revoke a ~~certificate of registration license~~ upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures in Iowa Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, this rule shall apply.

7.43(1) The notice required by Iowa Code section 252J.8 shall be served upon the ~~registrant~~ licensee by restricted certified mail, return receipt requested, or personal service in accordance with Rule of Civil Procedure ~~56.1~~ 1.305. Alternatively, the ~~registrant~~ licensee may accept service personally or through authorized counsel.

7.43(2) The effective date of revocation or suspension of a ~~certificate of registration license~~, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the ~~registrant~~ licensee.

7.43(3) The board’s executive officer is authorized to prepare and serve the notice required by Iowa Code section 252J.8 and is directed to notify the ~~registrant~~ licensee that the ~~certificate of registration license~~ will be suspended, unless the ~~registration license~~ is already suspended on other grounds. In the event a ~~registration license~~ is on suspension, the executive officer shall notify the ~~registrant~~ licensee of the board’s intent to revoke the ~~certificate of registration license~~.

7.43(4) ~~Registrants~~ Licensees shall keep the board informed of all court actions, and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J, and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

7.43(5) All board fees for license renewal or reinstatement must be paid by ~~registrants~~ licensees and all required continuing education must be satisfied before a ~~certificate of registration license~~ will be renewed or reinstated after the board has suspended or revoked a license pursuant to Iowa Code chapter 252J.

7.43(6) In the event a ~~registrant~~ licensee files a timely district court action following service of a board notice pursuant to Iowa Code sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of revocation or suspension of a ~~certificate of registration license~~, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

7.43(7) The board shall notify the ~~registrant~~ licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a ~~certificate of registration license~~, and shall similarly notify the ~~registrant~~ licensee or applicant when the ~~certificate of registration license~~ is issued or renewed following the board’s receipt of a withdrawal of the certificate of noncompliance.

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

ITEM 2. Amend rule 193—7.44(261) as follows:

193—7.44(261) Suspension or revocation of license upon receipt of a certificate of registration noncompliance—student loan. The board shall suspend or revoke a ~~certificate of registration license~~ upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code section 261.126. In addition to those procedures, this rule shall apply.

7.44(1) The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with ~~the Iowa Rules~~ Rule of Civil Procedure 1.305. Alternatively, the ~~registrant licensee~~ may accept service personally or through authorized counsel.

7.44(2) The effective date of revocation or suspension of a ~~certificate of registration license~~, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the ~~registrant licensee~~.

7.44(3) The board's executive officer is authorized to prepare and serve the notice required by Iowa Code section 261.126, and is directed to notify the licensee that the ~~certificate of registration license~~ will be suspended, unless the ~~certificate of registration license~~ is already suspended on other grounds. In the event a ~~certificate of registration license~~ is on suspension, the executive officer shall notify the ~~registrant licensee~~ of the board's intention to revoke the ~~certificate of registration license~~.

7.44(4) ~~Registrants~~ Licensees shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

7.44(5) All board fees required for registration license renewal or ~~registration license~~ reinstatement must be paid by ~~registrants~~ licensees and all continuing education requirements must be ~~met~~ satisfied before a ~~certificate of registration license~~ will be renewed or reinstated after the board has suspended or revoked a license pursuant to Iowa Code chapter 261.

7.44(6) In the event a ~~registrant licensee~~ timely files a district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a ~~certificate of registration license~~, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

7.44(7) The board shall notify the ~~registrant licensee~~ in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a ~~certificate of registration license~~, and shall similarly notify the ~~registrant licensee~~ when the ~~certificate of registration license~~ is reinstated following the board's receipt of a withdrawal of the certificate of noncompliance.

ITEM 3. Adopt the following new rule 193—7.45(272D):

193—7.45(272D) Suspension or revocation of a license upon receipt of certificate of noncompliance—state debt. The board shall suspend or revoke a license upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures in Iowa Code chapter 272D. In addition to the procedures set forth in Iowa Code chapter 272D, this rule shall apply.

7.45(1) The notice required by Iowa Code section 272D.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

7.45(2) The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the licensee.

7.45(3) The board's executive officer is authorized to prepare and serve the notice required by Iowa Code section 272D.8 and is directed to notify the licensee that the license will be suspended, unless the license is already suspended on other grounds. In the event a license is on suspension, the executive officer shall notify the licensee of the board's intent to revoke the license.

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

7.45(4) Licensees shall keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D, and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

7.45(5) All board fees for license renewal or reinstatement must be paid by licensees, and all required continuing education must be satisfied before a license will be renewed or reinstated after the board has suspended or revoked a license pursuant to Iowa Code chapter 272D.

7.45(6) In the event a licensee files a timely district court action following service of a board notice pursuant to Iowa Code sections 272D.8 and 272D.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of revocation or suspension of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

7.45(7) The board shall notify the licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a license and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal of the certificate of noncompliance.

ITEM 4. Amend **193—Chapter 7**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 252J, 272C, 272D, 542, 542B, 543B, 543D, 544A, 544B, and 544C and Iowa Code sections 261.126, 261.127 and 546.10.

ITEM 5. Amend **193—Chapter 8**, title, as follows:

CHAPTER 8

DENIAL OF ISSUANCE OR RENEWAL OF LICENSE FOR
NONPAYMENT OF CHILD SUPPORT, ~~OR~~ STUDENT LOAN, OR STATE DEBT

ITEM 6. Amend subrule 8.1(1) as follows:

8.1(1) The notice required by Iowa Code section 252J.8 shall be served upon the licensee or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Rule of Civil Procedure ~~56.1~~ 1.305. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

ITEM 7. Amend subrule 8.2(1) as follows:

8.2(1) The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with ~~the Iowa Rules~~ Rule of Civil Procedure 1.305. Alternatively, the applicant or licensee may accept service personally or through authorized counsel.

ITEM 8. Adopt the following new rule 193—8.3(272D):

193—8.3(272D) Nonpayment of state debt. The board shall deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures in Iowa Code chapter 272D. In addition to the procedures set forth in Iowa Code chapter 272D, this rule shall apply.

8.3(1) The notice required by Iowa Code section 272D.8 shall be served upon the licensee or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Rule of Civil Procedure 1.305. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

8.3(2) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the licensee or applicant.

8.3(3) The board's executive officer is authorized to prepare and serve the notice required by Iowa Code section 272D.8 upon the licensee or applicant.

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

8.3(4) Licensees and applicants shall keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

8.3(5) All board fees for applications, license renewal or reinstatement must be paid by licensees or applicants and all continuing education requirements must be met before a license will be issued, renewed or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 272D.

8.3(6) In the event a licensee or applicant files a timely district court action following service of a board notice pursuant to Iowa Code sections 272D.8 and 272D.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

8.3(7) The board shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal of the certificate of noncompliance.

ITEM 9. Amend **193—Chapter 8**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 252J and 272D and Iowa Code sections 261.126 and 261.127.

ARC 7045B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Dietetics hereby gives Notice of Intended Action to rescind Chapter 80, "Administrative and Regulatory Authority for the Board of Dietetic Examiners," to amend Chapter 81, "Licensure of Dietitians," Chapter 82, "Continuing Education for Dietitians," and Chapter 83, "Discipline for Dietitians," and to rescind Chapter 84, "Fees," Iowa Administrative Code.

These proposed amendments rescind chapters and rules that duplicate existing rules in 645—Chapters 4 and 5; eliminate outdated or duplicative language in the requirements for licensure, continuing education, and discipline; revise grounds for discipline to be consistent with changes in Iowa Code chapter 147; and provide for web-based reporting of name and address changes by licensees.

Any interested person may make written comments on the proposed amendments no later than August 20, 2008, addressed to Sharon Dozier, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail sdozier@idph.state.ia.us.

A public hearing will be held on August 20, 2008, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 152A and 272C.

The following amendments are proposed.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind and reserve **645—Chapter 80**.

ITEM 2. Strike the words "board of dietetic examiners" wherever they appear in **645—Chapter 81**, **645—Chapter 82** and **645—Chapter 83** and insert the words "board of dietetics" in lieu thereof.

ITEM 3. Rescind and reserve rules **645—81.8(152A)**, **645—81.11(147)**, **645—81.12(147)** and **645—81.14(17A,147,272C)**.

ITEM 4. Rescind and reserve rules **645—82.4(152A,272C)**, **645—82.5(152A,272C)**, **645—82.6(152A,272C)** and **645—82.9(152A,272C)**.

ITEM 5. Amend subrule 83.2(2), introductory paragraph, as follows:

83.2(2) Professional ~~incompetency~~ incompetence. Professional ~~incompetency~~ incompetence includes, but is not limited to:

ITEM 6. Amend subrule 83.2(11) as follows:

83.2(11) Conviction of a ~~felony~~ crime related to the profession or occupation of the licensee or the conviction of any ~~felony~~ crime that would affect the licensee's ability to practice dietetics. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ITEM 7. Amend subrule 83.2(25) as follows:

83.2(25) Failure to report a change of name or address within 30 days after it occurs. Name and address changes may be reported on the form provided by the board at: www.idph.state.ia.us/licensure.

ITEM 8. Rescind and reserve rule **645—83.5(152A)**.

ITEM 9. Rescind and reserve **645—Chapter 84**.

ARC 6997B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science hereby gives Notice of Intended Action to rescind Chapter 99, "Administrative and Regulatory Authority for the Board of Mortuary Science," amend Chapter 100, "Practice of Funeral Directors, Funeral Establishments, and Cremation Establishments," Chapter 101, "Licensure of Funeral Directors, Funeral Establishments, and Cremation Establishments," Chapter 102, "Continuing Education for Funeral Directors," and Chapter 103, "Disciplinary Proceedings," and rescind Chapter 105, "Fees," Iowa Administrative Code.

These proposed amendments rescind duplicative language found in 645—Chapters 4 and 5; amend the definition of "authorized person" to be consistent with 2008 Iowa Acts, Senate File 473; specify criteria for exception authorized by Iowa Code section 156.4(1) by making an allowance for an Iowa-licensed funeral director to provide funeral services from an establishment licensed in another jurisdiction; clarify that every funeral and cremation establishment must hold a license issued by the Board; and update the discipline chapter to be consistent with legislative changes in 2008 Iowa Acts, House File 2212, and Iowa Code Supplement section 156.9.

Any interested person may make written comments on the proposed amendments no later than August 19, 2008, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail ebaird@idph.state.ia.us.

A public hearing will be held on August 19, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 156 and 272C and 2008 Iowa Acts, Senate File 473 and House File 2212.

The following amendments are proposed.

ITEM 1. Rescind and reserve **645—Chapter 99**.

ITEM 2. Rescind the definition of “Authorized person” in rule **645—100.1(156)** and adopt the following **new** definition in lieu thereof:

“*Authorized person*” means that person or persons upon whom a funeral director may reasonably rely when making funeral arrangements including, but not limited to, embalming, cremation, funeral services, and the disposition of human remains pursuant to 2008 Iowa Acts, Senate File 473, section 10.

ITEM 3. Adopt the following **new** subrule 100.2(4):

100.2(4) Funeral directors who provide mortuary science services from funeral establishments located in another state. A funeral director who holds an active Iowa funeral director’s license and whose practice is conducted from a funeral establishment located in another state may provide mortuary science services in Iowa if the establishment holds a current license in the state in which it is located, if such a license is required.

ITEM 4. Amend subrule 101.7(1), introductory paragraph, as follows:

~~**101.7(1)** Any person or any corporation, partnership, joint venture, limited liability company, voluntary organization or any other entity doing business in this state may erect, maintain, and operate a funeral establishment, cremation establishment, or both establishments, provided the necessary appliances and facilities for the care, preparation and disposition of human remains are in place and proper licenses are obtained and maintained. A place of business devoted to providing any aspect of mortuary science or cremation services shall hold an establishment license issued by the board. An establishment license shall not be issued more than 30 days prior to the opening of a new establishment.~~

ITEM 5. Rescind and reserve paragraph **101.7(1)“i.”**

ITEM 6. Rescind and reserve rules **645—101.9(156)**, **645—101.11(147)** and **645—101.12(147)**.

ITEM 7. Rescind and reserve rules **645—102.4(156,272C)**, **645—102.5(156,272C)**, **645—102.6(272C)** and **645—102.9(272C)**.

ITEM 8. Amend paragraph **103.3(4)“b”** as follows:

b. Any violation of Iowa Code ~~section 144.32~~ chapter 144.

ITEM 9. Rescind subrule 103.3(12) and adopt the following **new** subrule in lieu thereof:

103.3(12) Conviction of any crime related to the practice of mortuary science or implicating the licensee’s competence to safely perform mortuary science services, including but not limited to a crime involving moral character, dishonesty, fraud, theft, embezzlement, extortion, or controlled substances, in a court of competent jurisdiction in this state, or in another state, territory, or district of the United States, or in a foreign jurisdiction. For purposes of this subrule, “conviction” includes a guilty plea, deferred judgment, or other finding of guilt. A certified copy of the judgment is prima facie evidence of the conviction.

ITEM 10. Adopt the following **new** subrule 103.4(6):

103.4(6) The licensee or owner of the establishment has violated the smokefree air Act, 2008 Iowa Acts, House File 2212.

ITEM 11. Rescind and reserve **645—Chapter 105**.

ARC 6990B**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 2008 Iowa Acts, House File 2212, the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 153, "Smokefree Air," Iowa Administrative Code.

The purpose of these rules is to implement the Smokefree Air Act as enacted by 2008 Iowa Acts, House File 2212.

Consideration will be given to all written suggestions or comments on these rules received on or before August 22, 2008. Such written materials should be sent to Bonnie Mapes, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. A comment form is also available on the following Web site: www.IowaSmokefreeAir.gov.

Also, there will be five regional public hearings on the dates and at the times listed below at which persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Five regional hearings will originate from the Iowa Communications Network (ICN) Room at the locations listed after each number and will also be accessible over the ICN from the additional locations listed as bullets under each origination site.

1. August 20, 2008, 9:30 to 11:30 a.m.: Iowa City Public Library, 123 South Linn Street, Meeting Room D, Iowa City

- Great River Area Education Agency 16, 3601 West Avenue, Burlington
- Kirkwood Community College, 6301 Kirkwood Blvd. SW, Linn Hall, Room 203B, Cedar Rapids
- Clinton Community College, 1000 Lincoln Boulevard, Room 105, Clinton
- Wayne Community High School, 102 N. Dekalb Street, Room 100, Corydon
- Eastern Iowa Community College District, 326 West 3rd Street, Kahl Educational Center, Room 300, Davenport

- Keota High School, N. Ellis Avenue, Keota

- Ottumwa High School, 501 E. 2nd, Voc. Tech. Building, Room 157, Ottumwa

2. August 20, 2008, 2:30 to 4:30 p.m.: Waterloo West High School, Baltimore and Ridgeway, Waterloo

- Decorah High School, 100 East Claiborne Drive, Decorah

- Dubuque Senior High School, 1800 Clarke Drive, Room A-123, Dubuque

- Area Education Agency 267 Regional Office – Marshalltown, 909 S. 12th Street, Marshalltown

- North Iowa Area Community College, 500 College Drive, Activity Center, Room 106, Mason City

3. August 21, 2008, 2:30 to 4:30 p.m.: Iowa Department of Education, Grimes State Office Building, E. 14th and Grand Avenue, Second Floor, Des Moines

- Iowa State University, Lagomarcino Hall, Room N147, Corner of Knoll Road & Pamel Drive, Ames

- Carroll High School, 2809 N. Grant Road, Room A169, Carroll

- Guthrie Center High School, 906 School Street, Room 101, Guthrie Center

- Newton High School, 800 E. 4th Street S., Room 104, Newton

- Pella High School, 212 E. University Street, Room 115, Pella

4. August 22, 2008, 9:30 to 11:30 a.m.: Council Bluffs Public Library, 400 Willow Avenue, Council Bluffs

- Green Valley Area Education Agency 14, 1405 N. Lincoln, Turner Room, Creston

- Elk Horn-Kimballton High School, 4114 Madison Street, Room 4, Elk Horn

- Clarke Community High School, 800 N. Jackson, Osceola

- Shenandoah High School, 1000 Mustang Drive, Ed May Center, Shenandoah

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- Woodbine High School, 5th and Weare, Woodbine
- 5. August 22, 2008, 2:30 to 4:30 p.m.: Department of Human Services, Trospar-Hoyt County Services Building, 822 Douglas Street, Fourth Floor, Sioux City
- Cherokee High School, 600 West Bluff Street, Armory Building, Fiber Optic Room, Cherokee
- Western Iowa Tech. Community College, 11 North 35th Street, Room B-6, Denison
- Prairie Lakes Area Education Agency 8 – Fort Dodge, 330 Avenue M, Library Building, Room 204, Fort Dodge
- MOC-Floyd Valley High School, 615 8th Street SE, Orange City
- Central Lyon Elementary-Middle School, 1105 S. Story, Room 120-121, Rock Rapids
- Iowa Central Community College, 916 North Russell, Room 16, Storm Lake

Any persons who intend to attend a public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Public Health and advise of specific needs.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 6989B**. The content of that submission is incorporated by reference.

These rules are intended to implement 2008 Iowa Acts, House File 2212.

ARC 6999B**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 6, "Vehicle Impoundment," Iowa Administrative Code.

The U.S. Supreme Court (Fla. v. Wells, 110 Sup. Ct. 1632) has held that if a law enforcement agency inventories impounded vehicles, any contraband found during an inventory is inadmissible evidence in a subsequent criminal case unless the agency has a written policy requiring inventories of impounded vehicles. Iowa Administrative Code 661—Chapter 6 was adopted as the required written policy.

Officers of the Department of Public Safety are required by subrule 6.4(2) to conduct an inventory within 24 hours of impoundment of any vehicle. This may be impracticable under emergency conditions, either because officers are urgently needed for duties directly related to an emergency or because large numbers of vehicles may be impounded in a short period during an emergency. The amendment proposed herein would allow for the 24-hour period to be extended in emergencies.

A public hearing on this proposed amendment will be held on September 9, 2008, at 8:45 a.m. in the First Floor Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The building and conference room are fully accessible. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us at least one day prior to the public hearing.

Any written comments or information regarding the proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on September 9, 2008, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

This amendment was also Adopted and Filed Emergency, effective July 1, 2008, and is published herein as **ARC 6986B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 321.89 and Florida v. Wells, 110 Sup. Ct. 1632.

ARC 7000B

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 690.1, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 11, "Identification Section of the Division of Criminal Investigation," Iowa Administrative Code.

Iowa Code chapter 690 requires that each local law enforcement agency in the state take fingerprints of any unidentified dead bodies and of any persons taken into custody for a serious misdemeanor or greater offense. Both the statutory language and the rules require the submission of those fingerprints to the Department within two working days.

Rapid submission of fingerprints, while desirable, is not always practicable, particularly for local agencies affected by emergency conditions. This proposed amendment would address this concern by defining the term "working day," which currently is not defined in the Iowa Code or in the Department's administrative rules. The definition clarifies that no day is counted toward the "two working days" deadline if it is a Saturday, Sunday, state holiday, federal holiday during which the administrative office of the submitting agency is closed, or day during which that office is closed because of emergency conditions.

A public hearing on this proposed amendment will be held on September 9, 2008, at 8:30 a.m. in the First Floor Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The building and conference room are fully accessible. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us at least one day prior to the public hearing.

Any written comments or information regarding the proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on September 9, 2008, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

This amendment was also Adopted and Filed Emergency, effective July 1, 2008, and is published herein as **ARC 6987B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 690.2.

ARC 6998B**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 80A.15, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 121, "Bail Enforcement, Private Investigation, and Private Security Businesses," Iowa Administrative Code.

Iowa Code chapter 80A establishes the state's licensing program for bail enforcement, private investigative, and private security businesses and assigns authority for administering the licensing program to the Department of Public Safety, including the authority to adopt administrative rules for the program. Those rules currently provide for issuance of duplicate licenses to substitute for licenses that have been lost or destroyed and require payment of a \$5 fee. The amendments proposed herein would provide for issuance of replacement licenses at no charge when a license has been lost or destroyed due to conditions that have been a basis for issuance of a disaster emergency proclamation by the Governor.

A public hearing on these proposed amendments will be held on September 9, 2008, at 9 a.m. in the First Floor Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The building and conference room are fully accessible. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us at least one day prior to the public hearing.

Any written comments or information regarding the proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on September 9, 2008, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

These amendments were also Adopted and Filed Emergency, effective July 1, 2008, and are published herein as **ARC 6985B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code chapter 80A.

ARC 7020B**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 321.4, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 157, "Devices and Methods to Test Body Fluids for Alcohol or Drugs," Iowa Administrative Code.

Iowa Code chapter 321J requires that various devices used to measure concentrations of alcohol or other drugs, including evidentiary breath testing devices, be approved for use by the Commissioner of Public Safety.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

The technology available for evidentiary testing of breath for the presence and concentration of alcohol is an evolving area. From time to time, technological improvements require approval of new devices or new models of devices previously approved for use in Iowa. The amendment proposed herein would provide that approvals of new devices as well as withdrawals of prior approvals would be announced through the publication of revised lists of approved evidentiary breath testing devices when the list of approvals changes. The current list would be available upon request to the Division of Criminal Investigation Criminalistics Laboratory and would also be available on the Web site of the Department of Public Safety.

A public hearing on this proposed amendment will be held on September 9, 2008, at 8:15 a.m. in the First Floor Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The building and conference room are fully accessible. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us at least one day prior to the public hearing.

Any written comments or information regarding the proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on September 9, 2008, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

This amendment is intended to implement Iowa Code chapter 321J.

The following amendment is proposed.

Amend rule 661—157.2(321J) as follows:

661—157.2(321J) ~~Breath~~ Evidentiary breath testing.

157.2(1) A peace officer desiring to perform testing of a subject's breath for the purpose of determining the alcohol concentration shall employ, or cause to be used, a breath testing device of a type meeting the minimum performance requirements established in Highway Safety Programs; Model Specifications for Devices to Measure Breath Alcohol, Federal Register, Volume 58, No. 179 (September 17, 1993), pp. 48705-48708. All devices so used must be certified to be in proper working order within a period of one year immediately preceding use according to procedures specified for that device.

157.2(2) ~~The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner of public safety for collection of breath samples for evidentiary purposes. The current list shall be available upon request to the division of criminal investigation criminalistics laboratory. Procedures for certification or recertification of the Datamaster edm are contained in the document Certification or Recertification of the Datamaster edm, published by the division of criminal investigation criminalistics laboratory. A copy of the current version of this document may be obtained by contacting the division of criminal investigation criminalistics laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or at on the Web site of the department of public safety.~~

NOTE: The current address for information on ~~the Datamaster edm~~ approved evidentiary breath testing equipment from the criminalistics laboratory is: <http://www.dps.state.ia.us/DCI/Crime Lab/Evidential Breath Testing/index.shtml>.

157.2(3) The operator of an evidentiary breath testing device shall have been certified as competent in the operation of the breath testing device, and shall proceed in accordance with the instructions included in an operating manual furnished by the division of criminal investigation criminalistics laboratory. An operating manual, with number and date, specific to a particular approved device and prepared by the division of criminal investigation criminalistics laboratory shall be available to operators using the device. The current version of the operating manual for each device currently approved for use in Iowa may be obtained by contacting the division of criminal investigation criminalistics laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or from the department's Web site.

NOTE: ~~The operating manual for the Datamaster edm is titled "Operating the Datamaster edm."~~ The current location of ~~information regarding the Datamaster edm~~ operating

PUBLIC SAFETY DEPARTMENT[661](cont'd)

manuals for approved evidentiary breath testing devices on the department's Web site is: http://www.dps.state.ia.us/DCI/Crime_Lab/Evidential_Breath_Testing/index.shtml.

~~157.2(4)~~ All certifications of evidentiary breath testing devices shall be made by the division of criminal investigation criminalistics laboratory. All certifications of operators shall be made by the division of criminal investigation criminalistics laboratory or a designee. A designee shall be a person trained and certified by the division of criminal investigation criminalistics laboratory.

~~157.2(2)~~ **157.2(5)** A breath testing device is a device designed and constructed to measure a subject's breath alcohol concentration by utilizing a sample of the subject's breath.

~~157.2(3)~~ Although any breath testing device that meets the minimum performance requirements established by the National Highway Traffic Safety Administration, and cited in subrule 157.2(1), is authorized by the commissioner to be employed or to be caused to be used to determine the alcohol concentration, the following evidentiary device is being used in Iowa and meets the standards:

- ~~a.~~ — Datamaster edm, National Patents Analytical Systems, Inc.
- ~~b.~~ — Reserved.

ARC 7005B

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 100C.7, the State Fire Marshal hereby gives Notice of Intended Action to amend Chapter 275, "Certification of Automatic Fire Extinguishing System Contractors," Iowa Administrative Code.

Iowa Code chapter 100C establishes the Fire Extinguishing System Contractor Certification Program under the State Fire Marshal. Fees for certification are established by administrative rule (661—275.5(100C)), including a fee for issuance of an amended certification. Relocation of a business to a new address would constitute a material change requiring an amended certification. The amendment proposed herein would provide that if the relocation of a certified contractor stems from conditions related to a disaster emergency proclamation issued by the Governor, then the amended certificate shall be issued at no charge to the contractor.

A public hearing on this proposed amendment will be held on September 9, 2008, at 9:15 a.m. in the First Floor Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The building and conference room are fully accessible. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us at least one day prior to the public hearing.

Any written comments or information regarding the proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on September 9, 2008, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

This amendment was also Adopted and Filed Emergency, effective July 1, 2008, and is published herein as **ARC 6984B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code chapter 100C.

ARC 7008B**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby gives Notice of Intended Action to amend Chapter 322, "State Building Code—Manufactured Housing Support and Anchorage Systems," and to adopt new Chapter 323, "Temporary Emergency Use of Factory-Built Structures—Commercial Use," Iowa Administrative Code.

Responsibility for establishing standards for the installation of factory-built structures is assigned to the Building Code Commissioner. These standards are adopted as part of the State Building Code, with the approval of the Building Code Advisory Council. Rules establishing standards for installation of manufactured housing were recently reorganized, effective July 1, 2008, into new Chapter 322 of the rules of the Department of Public Safety, and then amended, also effective July 1, 2008, by an emergency rule making which allows for temporary emergency use of manufactured housing which does not meet all of the installation requirements that would normally apply. The amendments proposed herein would further facilitate temporary emergency use of manufactured homes to alleviate critical housing needs of persons displaced by recent flooding or tornadoes and would also facilitate provision of temporary emergency locations for businesses displaced by flooding or tornadoes.

In order to facilitate rapid availability of housing, an amendment proposed herein would allow for temporary occupancy of manufactured housing without compliance with the usual requirements for support systems for installed units. The units installed under the provision proposed herein would be for use for up to 18 months only, unless reinstalled in compliance with all of the standards that normally apply to such installations. Emergency relocation of businesses whose usual place of business has been rendered unusable by flooding, storm damage or any other condition which is a basis for a disaster emergency proclamation is facilitated by an amendment that would allow for the use for up to 18 months of factory-built structures which are not intended to be placed on permanent foundations, provided that manufacturers' specifications for installation and maintenance of the units are met.

A public hearing on these proposed amendments will be held on September 9, 2008, at 10 a.m. in the First Floor Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us at least one day prior to the hearing.

Any interested persons may make oral or written comments concerning these proposed amendments to the Agency Rules Administrator by mail, telephone, or in person at the above address by 4:30 p.m. on September 8, 2008. Comments may also be submitted by electronic mail to admrule@dps.state.ia.us by 4:30 p.m. on September 8, 2008.

These amendments were also Adopted and Filed Emergency, effective July 10, 2008, and are published herein as **ARC 7007B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code section 103A.9.

ARC 7006B**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 103A.56, the Building Code Commissioner hereby gives Notice of Intended Action to amend Chapter 372, "Manufactured or Mobile Home Retailers, Manufacturers, and Distributors," Iowa Administrative Code.

Iowa Code chapter 103A, Division IV, assigns to the Building Code Commissioner responsibility for regulating the manufactured housing industry, including the licensing of manufactured home retailers, manufacturers, and distributors. The current rules establish a fee for a new license (\$100), which is prescribed in the statute and which requires that a new license be issued when a manufacturer or distributor relocates. The amendment proposed herein would provide that if the relocation is due to conditions related to a disaster emergency, a new license is not required and an amended license shall be issued at no cost to the licensee.

A public hearing on this proposed amendment will be held on September 9, 2008, at 9:30 a.m. in the First Floor Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The building and conference room are fully accessible. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us at least one day prior to the public hearing.

Any written comments or information regarding the proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on September 9, 2008, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

This amendment was also Adopted and Filed Emergency, effective July 1, 2008, and is published herein as **ARC 6988B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 103A.52.

ARC 7001B**REAL ESTATE COMMISSION[193E]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 543B.9, 543B.18, and 543B.15, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 2, "Definitions," Iowa Administrative Code.

The proposed amendment adds the definition of "moral turpitude" to rule 2.1(543B) pursuant to Iowa Code Supplement section 543B.15 as amended by 2008 Iowa Acts, Senate File 2250, section 1.

REAL ESTATE COMMISSION[193E](cont'd)

A public hearing will be held on August 19, 2008, at 10 a.m. in the Second Floor Professional Licensing Conference Room, 1920 SE Hulsizer Road, Ankeny, Iowa, at which time persons may present their views on the proposed amendment either orally or in writing. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

Consideration will be given to all written suggestions or comments received before the end of the business day on August 19, 2008. Comments should be addressed to David Batts, Executive Officer, Iowa Real Estate Commission, 1920 SE Hulsizer, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to david.batts@iowa.gov.

This amendment is intended to implement Iowa Code sections 543B.9 and 543B.18 and Iowa Code Supplement section 543B.15 as amended by 2008 Iowa Acts, Senate File 2250, section 1.

The following amendment is proposed.

Adopt the following **new** definition in rule **193E—2.1(543B)**:

“Moral turpitude” means an act of baseness, vileness, or depravity, in the private and social duties which a person owes to another person or to society in general, contrary to the accepted and customary rule of right and duty between person and person. It is conduct that is contrary to justice, honesty and good morals. The following nonexclusive list of acts has been held by the courts to involve moral turpitude: perjury or its subornation, child endangerment, indecent exposure, sex crimes, conspiracy to commit a crime, defrauding the government, and illegal drug sales. Various factors, however, may cause an offense which is generally not regarded as constituting moral turpitude to be regarded as such. The offenses of assault, domestic abuse or other offenses of domestic violence, stalking, and any offense in which a weapon was used in the commission are crimes involving moral turpitude.

ARC 7004B

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 4, “Salesperson License,” and Chapter 16, “Prelicense Education and Continuing Education,” Iowa Administrative Code.

These proposed amendments change the time period for completion of required education from 12 months prior to the date of examination to 12 months prior to the date of application. These amendments better reflect the original intent of the Commission with regard to the time period for completing education requirements for real estate licensure.

A public hearing will be held on August 19, 2008, at 10 a.m. in the Second Floor Professional Licensing Conference Room, 1920 SE Hulsizer, Ankeny, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give his or her name and address for the record and to confine remarks to the subject of the proposed amendments.

Consideration will be given to all written suggestions or comments received before the end of the business day on August 19, 2008. Comments should be addressed to Toni Bright, Education Director, Iowa Real Estate Commission, 1920 SE Hulsizer, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to toni.bright@iowa.gov.

These amendments are intended to implement Iowa Code Supplement section 543B.15.

The following amendments are proposed.

REAL ESTATE COMMISSION[193E](cont'd)

ITEM 1. Amend subrule 4.1(10) as follows:

4.1(10) Beginning January 1, 2009, and thereafter, an applicant applying for an original salesperson license must provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. This education is in addition to the 60-hour salesperson prelicense course. The applicant must complete all the required education during the 12 months prior to ~~taking the examination~~ the date of application.

ITEM 2. Amend subrule 16.2(3) as follows:

16.2(3) Beginning January 1, 2009, and thereafter, an applicant applying for an original salesperson license must provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. This education is in addition to the 60-hour salesperson prelicense course. The applicant must complete all the required education during the 12 months prior to ~~taking the examination~~ the date of application.

ARC 7046B

SECRETARY OF STATE[721]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

This proposed rule defines procedures for establishing and operating voting centers, which were authorized in 2008 Iowa Acts, House File 2620, division II. Division II of 2008 Iowa Acts, House File 2620, became effective on July 1, 2008.

Any interested person may make written suggestions or comments on this proposed rule on or before August 19, 2008. Written suggestions or comments should be directed to Linda Langenberg, Deputy Secretary of State, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who wish to convey their views orally should contact the Secretary of State's office by telephone at (515)281-5866 or in person at the Secretary of State's offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by August 19, 2008.

This proposed rule was also Adopted and Filed Emergency and is published herein as **ARC 7047B**. The content of that submission is incorporated by reference.

This rule is intended to implement 2008 Iowa Acts, House File 2620, division II.

ARC 6991B

SECRETARY OF STATE[721]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

SECRETARY OF STATE[721](cont'd)

On May 6, 2008, the Governor signed 2008 Iowa Acts, House File 2663, the relevant portions of which which became effective on July 1, 2008. The bill repeals the requirements for elections to approve or disapprove imposition of or changes in the local option sales and services tax for school infrastructure purposes (SILO). The local option tax has been replaced with a statewide penny sales tax that will be used for similar purposes. The new law requires that elections be held to extend or amend previously adopted revenue purpose statements that specify the uses of this sales tax revenue. This proposed amendment rescinds the obsolete rule regarding SILO elections and replaces it with a rule that sets forth the form of ballot to be used whenever the adoption, amendment or extension of a revenue purpose statement is proposed.

Any interested person may make written suggestions or comments on this proposed amendment on or before August 19, 2008. Written suggestions or comments should be directed to Linda Langenberg, Deputy Secretary of State, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State's office by telephone at (515)281-5866 or in person at the Secretary of State's offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by August 19, 2008.

This proposed amendment was also Adopted and Filed Emergency and is published herein as **ARC 6992B**. The content of that submission is incorporated by reference.

This amendment is intended to implement 2008 Iowa Acts, House File 2663, section 29.

ARC 7003B

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10 and 307.12 and Iowa Code Supplement section 327F.13, the Department of Transportation hereby gives Notice of Intended Action to adopt Chapter 813, "Close-Clearance Warning Signs Along Railroad Tracks," Iowa Administrative Code.

Iowa Code Supplement section 327F.13 requires the Department of Transportation to adopt rules concerning close-clearance warning signs along railroad tracks where the clearance between the tracks and an obstruction along the tracks physically impedes a person who is lawfully riding on the side of a train from clearing the obstruction. New Chapter 813 implements this rule-making requirement.

This chapter does not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed rules or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than August 19, 2008.

A meeting to hear requested oral presentations is scheduled for Thursday, August 21, 2008, at 10 a.m. at the Administration Building, Modal Division Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa. The meeting will be canceled without further notice if no oral presentation is requested.

TRANSPORTATION DEPARTMENT[761](cont'd)

The proposed rules may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by September 2, 2008.

These rules are intended to implement Iowa Code Supplement section 327F.13.

Proposed rule-making action:

Adopt the following **new** 761—Chapter 813:

CHAPTER 813
CLOSE-CLEARANCE WARNING SIGNS ALONG RAILROAD TRACKS

761—813.1(327F) Purpose and scope. This chapter implements Iowa Code Supplement section 327F.13. This statute requires the Iowa department of transportation (department) to implement the placement of close-clearance warning signs along railroad tracks where the close clearance between the tracks and an obstruction physically impedes a person who is lawfully riding the side of a train from clearing the obstruction. This chapter only applies when funds are available from the department to reimburse the owner of the railroad track for the cost of the close-clearance warning sign and installation.

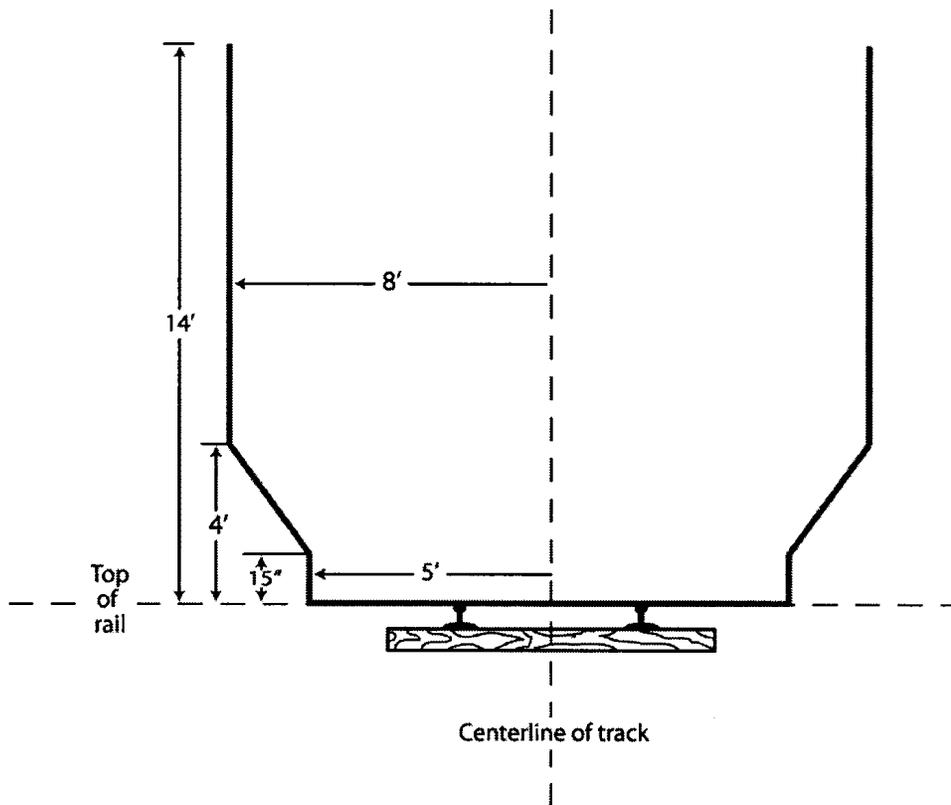
761—813.2(327F) Applicability. This chapter applies to railroad companies as well as industries, agricultural cooperatives or other entities that are owners of railroad track. This chapter does not apply to any railroad whose locomotives are powered by overhead or suspended electric power.

761—813.3(327F) Information. Information regarding this chapter is available from the Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1140.

761—813.4(327F) Definitions.

“*Close clearance*” means a location along railroad tracks where there is an obstruction that falls within the following dimensions: starting at the centerline of track at top of rail and extending 5 feet both sides horizontally and level therewith, thence upward vertically 15 inches, thence upward diagonally to a point 4 feet above top of rail and 8 feet laterally from centerline of track, thence vertically to a point 14 feet above top of rail.

TRANSPORTATION DEPARTMENT[761](cont'd)



“Obstruction” means a building, machinery, tree, brush or other object.

“Owner” means the railroad company, industry, agricultural cooperative, or other entity which holds a fee simple title, easement, leasehold, contract to purchase, license, or other legal or equitable interest or right in the railroad track, and is in primary possession and control of the railroad track.

761—813.5 Reserved.

761—813.6(327F) Dimensions and placement.

813.6(1) A close-clearance warning sign shall be placed in a location that provides adequate notice to a person riding the side of a train so that the person may prepare for the close clearance. A close-clearance warning sign shall comply with the following:

- a. Include the words “no clearance.” The letters must be black on a white reflective background and be a minimum of 3 inches high.
- b. Be a vertical sign not less than 42 inches in height and 4 inches in width.
- c. Be placed at least 1 foot off the ground or on the obstruction and within 3 feet of the close-clearance location or on the obstruction. Signs shall be located on both sides of the obstruction so as to be visible from both directions.
- d. Not be within 8 feet of the centerline of the tracks.

813.6(2) In the event that the physical environment prevents the placement of a warning sign in accordance with paragraphs 813.6(1) “c” or 813.6(1) “d,” the sign shall be placed in a highly visible location that is clearly indicative of the point of close clearance. An alternative size and shape of sign may be used if there is no location available where a standard size and shape sign may be used. Any alternative sign must clearly be identifiable as an indicator of the close-clearance situation.

TRANSPORTATION DEPARTMENT[761](cont'd)

813.6(3) Placement of a warning sign does not relieve the owner of a railroad track from any duties required under Iowa Code chapter 317 or Iowa Code section 327F.27.

761—813.7 and 813.8 Reserved.

761—813.9(327F) Requirements.

813.9(1) A close-clearance warning sign is required at all locations where there is close clearance. It is the responsibility of the owner of the railroad track to ensure that all close-clearance locations have warning signs.

813.9(2) If the owner of the railroad track is provided written notice by an employee, a person working on or near the tracks, or a railroad inspector that a location is in need of a close-clearance warning sign, the owner of the railroad track shall investigate and, if warranted, ensure the placement of a warning sign within 30 days of notification. If a close-clearance warning sign is not warranted, the owner of the railroad track shall inform the person who provided notice, in writing within 30 days, that a sign is not warranted and shall explain why the location does not need a close-clearance warning sign.

813.9(3) If the owner of the railroad track fails to respond to a notice by an employee or another person working on or near the tracks, or if the employee or other person disagrees with the railroad track owner’s determination that a warning sign is not warranted, the employee or other person may notify the department. The department shall investigate and make a determination if the location warrants the placement of a close-clearance warning sign.

a. If the department determines a close-clearance warning sign is warranted, the owner of the railroad track has 14 days to install the proper warning sign. Failure to install the close-clearance warning sign is evidence that the owner of the track is in violation of Iowa Code Supplement section 327F.13.

b. The owner of the railroad track or person working on or near the tracks may contest the determination. If the determination is contested, 761—Chapter 13 applies.

761—813.10(327F) Reimbursement. The owner of the railroad track may request reimbursement of \$200 per sign from the department for the close-clearance warning sign and installation. The owner shall certify the proper placement and location of each warning sign and certify the warning sign meets the requirements in rule 761—813.6(327F).

These rules are intended to implement Iowa Code Supplement section 327F.13.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vautd have established today the following rates of interest for public obligations and special assessments. The usury rate for July is 6.00%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective July 9, 2008, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 1.20%
32-89 days	Minimum 1.65%
90-179 days	Minimum 1.65%
180-364 days	Minimum 1.90%
One year to 397 days.....	Minimum 2.20%
More than 397 days.....	Minimum 2.40%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 7022B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 35A.5 and 2008 Iowa Acts, Senate File 2124, the Department of Veterans Affairs hereby gives Notice of Intended Action to amend Chapter 14, "Veterans Trust Fund," Iowa Administrative Code.

The amendments to Chapter 14 are proposed to increase the usage of the trust fund, to improve administration of the trust fund, and to implement legislative changes enacted during the 2008 Session of the Iowa General Assembly.

Any interested party or persons may present their views either orally or in writing at a public hearing to be held on August 19, 2008, from 2:30 to 4:30 p.m. at the Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact Kent Hartwig, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50313-1824, or at (515)242-0031, prior to the date of the hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact Kent Hartwig at (515)242-0031.

Any interested person may make written comments or suggestions on the proposed amendments until 4:30 p.m. on August 19, 2008. Written comments and suggestions should be addressed to Kent Hartwig, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50313-1824; sent by E-mail to kent.hartwig@iowa.gov; or sent by fax to (515)242-5659.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 7021B**. The content of that submission is incorporated by reference.

No fiscal impact is anticipated.

These rules are intended to implement 2008 Iowa Acts, Senate File 2124.

ARC 7002B**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 17A.3(1)"b" and Iowa Code Supplement section 35A.5(12), the Iowa Department of Veterans Affairs proposes to amend Chapter 15, "Veterans Commemorative Property," Iowa Administrative Code.

These proposed amendments are intended to implement 2008 Iowa Acts, Senate File 2333, which eliminates the requirement that veterans commemorative property be placed in a cemetery and be at least 75 years old before coming under the jurisdiction of the Iowa Department of Veterans Affairs for a property transaction.

Any interested party or persons may present their views either orally or in writing at a public hearing to be held on August 19, 2008, from 2 to 2:30 p.m. at the Dodge House, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact Kent Hartwig, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50313-1824; or at (515)242-0031, prior to the date of the hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact Kent Hartwig at (515)242-0031.

Any interested person may make written comments or suggestions on the proposed amendments until 4:30 p.m. on August 19, 2008. Written comments and suggestions should be addressed to Kent Hartwig, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50313-1824; sent by E-mail to kent.hartwig@iowa.gov; or sent by fax to (515)242-5659.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2333.

The following amendments are proposed.

ITEM 1. Rescind the definition of "Cemetery" in rule **801—15.2(37A)**.

ITEM 2. Amend rule **801—15.2(37A)**, definitions of "Veterans commemorative property" and "Veterans organization," as follows:

"*Veterans commemorative property*" means any memorial as defined in Iowa Code section 5231.102, including a headstone, plaque, statue, urn, decoration, flag holder, badge, shield, item of memorabilia, or other embellishment, that ~~meets all of the following criteria:~~ identifies or commemorates any veteran or group of veterans, including any veterans organization or any military unit, company, battalion, or division.

~~1. — Is over 75 years old;~~

~~2. — Identifies or commemorates any veteran or group of veterans, including any veterans organization or any military unit, company, battalion, or division; and~~

~~3. — Has been placed in a cemetery.~~

"*Veterans organization*" means the Grand Army of the Republic, Sons of Union Veterans of the Civil War, Sons of Confederate Veterans, Veterans of Foreign Wars, Disabled American Veterans, Paralyzed Veterans of America, Military Order of the Purple Heart, Forty and Eight, Vietnam Veterans of America, United Spanish

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

War Veterans, the Jewish War Veterans of the United States, Inc., the Catholic War Veterans, Inc., American Legion, American Veterans of World War II, Italian American War Veterans of the United States, Inc., or other corporation or association of veterans.

ITEM 3. Amend subrule 15.3(1) as follows:

15.3(1) Notification. Prior to the sale, trade or transfer of veterans commemorative property, a person who owns or controls a ~~cemetary~~ property where veterans commemorative property has been placed shall provide notice to the department and obtain written authorization. Notification to the department shall be submitted for review on forms provided by the department 60 days prior to the proposed transaction date of the veterans commemorative property.

ITEM 4. Amend subrule 15.4(6) as follows:

15.4(6) Lending owner approval. The department may authorize the sale, trade, or transfer of veterans commemorative property if the owner of the property authorizes the transaction and is aware that the ~~cemetary~~ entity in possession of the property will retain the proceeds of the transaction.

ITEM 5. Amend **801—Chapter 15**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 37A.1 as amended by 2008 Iowa Acts, Senate File 2333.

ARC 7019B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 35A.5 and 2008 Iowa Acts, House File 2283, the Department of Veterans Affairs hereby gives Notice of Intended Action to adopt Chapter 16, "Limited Residency Vietnam Conflict Veterans Bonus," Iowa Administrative Code.

The rules in Chapter 16 are established to create a limited Vietnam veteran bonus for the time period of July 1, 1958, to May 31, 1975, for veterans of that time period who were inducted into the military in Iowa, were denied a previous Iowa Vietnam bonus due to residency, and have not received a similar bonus from another state.

Any interested party or persons may present their views either orally or in writing at a public hearing to be held on August 19, 2008, from 1:30 to 2 p.m. at the Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules. Persons who wish to make oral presentations at the public hearing may contact Kent Hartwig, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50313-1824, or at (515)242-0031, prior to the date of the hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact Kent Hartwig at (515)242-0031.

Any interested person may make written comments or suggestions on the proposed rules until 4:30 p.m. on August 19, 2008. Written comments and suggestions should be addressed to Kent Hartwig, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50313-1824; sent by E-mail to kent.hartwig@iowa.gov; or sent by fax to (515)242-5659.

This new chapter was also Adopted and Filed Emergency and is published herein as **ARC 7018B**. The content of that submission is incorporated by reference.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

No fiscal impact is anticipated.

These rules are intended to implement 2008 Iowa Acts, House File 2283.

ARC 7044B

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 96.11, the Director of the Workforce Development Department hereby gives Notice of Intended Action to amend Chapter 24, "Claims and Benefits," Iowa Administrative Code.

New rule 871—24.10(96) is proposed pursuant to 2008 Iowa Acts, Senate File 2160, and provides criteria for the implementation of the legislation. Senate File 2160 states that an unemployment insurance accounting firm which demonstrates a continuous pattern of failing to participate in the initial unemployment benefit hearings shall be denied permission to represent employers before the Department of Workforce Development. The new rule defines maximum suspension criteria and allows the Department to reduce suspensions based upon all the facts of the situation.

Interested persons, governmental agencies and associations may present written comments or statements on the proposed amendment not later than 4:30 p.m., August 19, 2008, to Joseph Walsh, Workforce Development Department, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

A public hearing will be held at 9:30 a.m. on August 19, 2008, at the above address. The proposed amendment is subject to revision after the Department considers all written and oral presentations. Persons who want to convey their views orally should contact Joseph Walsh at (515)281-5082 or at the above address.

This amendment is intended to implement Iowa Code section 96.3(7)"b" as amended by 2008 Iowa Acts, Senate File 2160.

The following amendment is proposed.

Adopt the following **new** rule 871—24.10(96):

871—24.10(96) Employer and employer representative participation in fact-finding interviews.

24.10(1) "Participate," as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means submitting detailed factual information of the quantity and quality that if un rebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing detailed written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer's representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer's representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.32(7). On the other hand, written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

24.10(2) “A continuous pattern of nonparticipation in the initial determination to award benefits,” pursuant to Iowa Code section 96.6, subsection 2, as the term is used for an entity representing employers, means on 25 or more occasions in a calendar quarter beginning with the first calendar quarter of 2009, the entity files appeals after failing to participate. Appeals filed but withdrawn before the day of the contested case hearing will not be considered in determining if a continuous pattern of nonparticipation exists. The division administrator shall notify the employer’s representative in writing after each such appeal.

24.10(3) If the division administrator finds that an entity representing employers as defined in Iowa Code section 96.6, subsection 2, has engaged in a continuous pattern of nonparticipation, the division administrator shall suspend said representative for a period of up to six months on the first occasion, up to one year on the second occasion and up to ten years on the third or subsequent occasion. Suspension by the division administrator constitutes final agency action and may be appealed pursuant to Iowa Code section 17A.19.

24.10(4) “Fraud or willful misrepresentation by the individual,” as the term is used for claimants in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means providing knowingly false statements or knowingly false denials of material facts for the purpose of obtaining unemployment insurance benefits. Statements or denials may be either oral or written by the claimant. Inadvertent misstatements or mistakes made in good faith are not considered fraud or willful misrepresentation.

This rule is intended to implement Iowa Code section 96.3(7)“b” as amended by 2008 Iowa Acts, Senate File 2160.

ARC 7031B

ELDER AFFAIRS DEPARTMENT[321]**Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby rescinds Chapter 9, "Resident Advocate Committees," Iowa Administrative Code, and adopts a new Chapter 9 with the same name in its place.

The new chapter changes the processes for membership on resident advocate committees, requires committee members to be trained on a regular basis, and removes language that has not been utilized for several years and includes a severability clause.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6789B**. The public comment period on this Notice ended May 27, 2008. This new chapter is identical to that published under Notice.

The Commission adopted the new chapter during an emergency meeting on July 2, 2008. This meeting was held due to the Commission's premature adoption of this chapter at their regularly scheduled meeting on June 10, 2008. Adoption of the chapter on June 10, 2008, was one day earlier than permitted under Iowa Code section 17A.4(1)"a." The Commission has since reconvened and adopted the new chapter on July 2, 2008.

The Commission finds that the new chapter confers a benefit on the public by not delaying the effective date of the chapter and allowing the new revised provisions for appointment of resident advocate committee members to begin on the effective date of the earlier incorrect filing. Therefore, the new chapter is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of the new chapter is waived.

These rules shall become effective August 6, 2008.

These rules are intended to implement Iowa Code section 231.44.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 9] is being omitted. These rules are identical to those published under Notice as **ARC 6789B**, IAB 5/7/08.

[Filed Emergency After Notice 7/10/08, effective 8/6/08]

[Published 7/30/08]

[For replacement pages for IAC, see IAC Supplement 7/30/08.]

ARC 6994B

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 217.6, 234.6, 239B.4(4), 249A.4, and 514I.5, the Department of Human Services amends Chapter 58, "Emergency Assistance," Iowa Administrative Code.

These amendments implement a new division intended to allow the Department to deliver services more effectively during or following a disaster emergency declared by state or federal officials. This division includes rules that temporarily supersede Departmental rules that would otherwise apply. The temporary rules are intended to meet special circumstances that arise from each unique disaster emergency, with the primary purpose of reducing barriers to accessing and receiving services that may result from the disaster emergency. The rules are time-limited and specify the period in which they will be in effect.

Some rules are limited in geographic scope to correspond with specific locales designated as disaster areas by state or federal officials. Others are applied statewide because the disaster emergency is of such a nature or magnitude that doing so allows the Department to most effectively allocate resources and deliver services. Rules implemented under this division must be consistent with applicable federal requirements, including any waivers that may be granted due to the disaster emergency.

These amendments do not provide for waivers in specified situations since the changes benefit recipients in the programs affected.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The HAWK-I Board adopted these amendments on July 8, 2008. The Council on Human Services adopted these amendments on July 9, 2008.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because these amendments are needed to provide immediate relief to customers affected by the recent natural disasters throughout the state. Time is of the essence to ensure uninterrupted benefits.

The Department finds that these amendments confer a benefit by reducing administrative barriers that impede the Department's ability to provide continued assistance to customers affected by the recent natural disasters throughout the state. The Department also finds that these amendments are necessary to ensure the health, safety, and welfare of customers affected by disasters, especially those who have been displaced or are otherwise in dire circumstances. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2) "b"(2) and "b"(3), and the normal effective date of these amendments is waived.

These amendments are also published herein under Notice of Intended Action as **ARC 6995B** to allow for public comment.

These amendments are intended to implement Iowa Code chapters 234, 237A, 239B, 249, 249A, 249J, and 514I.

These amendments became effective July 9, 2008.

The following amendments are adopted.

ITEM 1. Reserve rules **441—58.32** through **441—58.40**.

ITEM 2. Adopt the following **new** division heading in **441—Chapter 58**:

DIVISION III
TEMPORARY MEASURES RELATED TO DISASTERS

ITEM 3. Adopt the following **new** rules 441—58.41(217) to 441—58.45(249A):

441—58.41(217) Purpose. The rules in this division are intended to allow the department to deliver services more effectively during or following a disaster emergency declared by state or federal officials. These rules temporarily supersede departmental rules that would otherwise apply, with the primary purpose of reducing barriers to accessing and receiving services that may result from the emergency. The rules shall be tailored to meet special circumstances that arise from a specific disaster emergency and shall be time-limited.

This rule is intended to implement Iowa Code section 217.6.

441—58.42(234,237A,239B,249,249A,249J,514I) Extension of scheduled reporting and review requirements. Normal scheduled reporting, review, recertification, redetermination, or similar requirements related to continued eligibility are amended as follows:

58.42(1) Scheduled actions due in June 2008. For the month of June 2008, no quarterly report, six-month or 12-month review, or similar recertification or redetermination normally required under the following chapters shall be required of households residing in the most affected counties during the month. For all programs except food assistance, the designated counties are Black Hawk, Bremer, Butler, Johnson, and Linn.

1. 441—Chapter 40 (family investment program);
2. 441—Chapter 50 (state supplementary assistance);
3. 441—Chapter 65 (food assistance);
4. 441—Chapter 75, 76, or 83 (medical assistance and family planning waiver);
5. 441—Chapter 86 (HAWK-I);
6. 441—Chapter 92 (IowaCare); or
7. 441—Chapter 170 (child care assistance).

58.42(2) Scheduled actions due in July and August 2008. For the months of July and August 2008, no quarterly report, six-month or 12-month review, or similar recertification or redetermination normally required under the following chapters shall be required of households residing in any county of the state:

1. 441—Chapter 40 (family investment program);
2. 441—Chapter 50 (state supplementary assistance);

HUMAN SERVICES DEPARTMENT[441](cont'd)

3. 441—Chapter 65 (food assistance);
4. 441—Chapter 75, 76, or 83 (medical assistance and family planning waiver);
5. 441—Chapter 86 (HAWK-I);
6. 441—Chapter 92 (IowaCare); or
7. 441—Chapter 170 (child care assistance).

58.42(3) *Next scheduled action due.* For those households affected under subrules 58.42(1) and 58.42(2), the next report, review, recertification, or redetermination shall be scheduled as if the action due in June, July, or August 2008 had occurred. For example, if a six-month review was to have occurred in June 2008, the next review will be due in December 2008. Likewise, if a 12-month recertification was due in July 2008, the next recertification will be due in July 2009.

58.42(4) *Continuing to report and act on changes.* Other than as provided by this rule, households shall continue to comply with program requirements for reporting changes in circumstances. Good cause provisions for not reporting changes timely shall apply as provided by existing rules. The department shall continue to act on all changes reported or otherwise known to the department that may affect eligibility or benefits during the extended reporting, review, recertification and redetermination periods provided under this rule.

This rule is intended to implement Iowa Code chapters 234, 237A, 239B, 249, 249A, 249J, and 514I.

441—58.43(237A) *Need for child care services.* State child care assistance eligibility requirements concerning need for service in rule 441—170.2(237A,239B) shall be held in abeyance for households residing in governor-declared disaster counties during the months of June, July, and August 2008. Households in those counties that previously met the requirement shall be considered to continue to meet the requirement for those three months if the disaster and ensuing recovery temporarily prevent the household from otherwise meeting this requirement.

This rule is intended to implement Iowa Code section 237A.13.

441—58.44(249A,249J,514I) *Premium payments.* Individuals residing in any Iowa county declared by the governor to be a disaster area who would otherwise have their assistance under 441—Chapter 75 (medical assistance), 441—Chapter 86 (HAWK-I), or 441—Chapter 92 (IowaCare) canceled for failure to make a premium payment in the months of June or July 2008 shall not have their assistance canceled for this reason.

This rule is intended to implement Iowa Code chapters 249A, 249J, and 514I.

441—58.45(249A) *Citizenship and identity.* Citizenship and identity requirements under 441—Chapter 75 for medical assistance applicants shall be held in abeyance for the months of June, July, and August 2008, for individuals residing in counties declared disaster areas by the governor as provided in this rule.

58.45(1) An affidavit may be used to establish both citizenship and identity when other forms of verification are not available and the department is unable to obtain verification through a match with vital records maintained by the department of public health.

58.45(2) An individual approved for medical assistance under this rule shall be granted a certification period of only three months. At the end of the three-month period, the individual shall be required to provide documentation of citizenship and identity as otherwise required under 441—Chapter 75 to continue eligibility.

This rule is intended to implement Iowa Code chapter 249A.

[Filed Emergency 7/9/08, effective 7/9/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7013B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 88, “Managed Health Care Providers,” Iowa Administrative Code.

These amendments add Medicaid coverage for a new type of managed health care, Programs of All-Inclusive Care for the Elderly (or PACE), as allowed under federal Medicaid regulations at 42 CFR Part 460. For a monthly capitated rate, a PACE organization provides all preventive, primary, acute, and long-term care services to persons who enroll in the program.

To become a PACE organization, an entity must be approved by both the Department and the Centers for Medicare and Medicaid Services (CMS). The organization must enter into a three-party agreement with the Department and CMS committing to abide by state rules and federal regulations for PACE programs. The agreement must specify which counties the program will serve.

PACE programs may serve Medicaid members, Medicare beneficiaries, persons eligible for both Medicare and Medicaid benefits, and persons who pay privately for the service. Enrollment is limited to persons who are 55 years of age or older and who need care at the nursing facility level but are able to live in a community setting without jeopardizing their health and safety. Enrollees receive preventive and coordinated medical care that allows them to live in their homes. Enrollment to receive services from a PACE organization is voluntary.

If a Medicaid member chooses to enroll in a PACE program, the member must receive Medicaid benefits solely through the PACE organization while enrolled in the program. Medicaid members enrolled in the PACE program are liable to the PACE organization for the amount of their capitation payment, to the extent of their countable income as determined using the procedures for determining client participation in a long-term care facility.

The Department has assured CMS that the PACE program will be budget-neutral. An actuarial analysis has been completed to ensure that PACE capitation payments are less than the amount that would otherwise have been paid under the Medicaid state plan for the enrollees’ services if the enrollees were not enrolled under the PACE program.

These amendments do not provide for waivers in specified situations because the amendments reflect federal regulations that the Department has no authority to waive. Requests for waivers may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 21, 2008, as **ARC 6806B**. The Department received no comments on the Notice of Intended Action. The Department has added one technical change to this filing, to correct the name of the Iowa Board of Medicine in subrule 88.49(4).

The Council on Human Services adopted these amendments on July 9, 2008.

The Department finds that these amendments confer a benefit on Medicaid members by offering them another alternative to long-term care placement. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments became effective on July 9, 2008.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 88] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 6806B**, IAB 5/21/08.

[Filed Emergency After Notice 7/9/08, effective 7/9/08]

[Published 7/30/08]

[For replacement pages for IAC, see IAC Supplement 7/30/08.]

ARC 7014B

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 217.6 and 249A.4, the Department of Human Services amends Chapter 92, "IowaCare," Iowa Administrative Code.

Iowa Code section 249J.14(6) requires the Department to implement a program to reduce smoking among IowaCare members. These amendments allow IowaCare members to obtain smoking cessation drugs from community pharmacies instead of only from the University of Iowa Hospitals and Clinics in Iowa City and Broadlawns Medical Center in Des Moines. The current policy is impractical since it requires travel, in some cases hundreds of miles, for a prescription that is generally available in the local community. Expanded access to these drugs will make it easier for IowaCare members to receive assistance with smoking cessation. The Department expects that, with easier access, members will be more likely to take advantage of this benefit and be more likely to reduce their tobacco use.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 21, 2008, as **ARC 6807B**. The Department received no comments on the Notice of Intended Action.

The Department has added one technical amendment to reflect that premium payments are no longer accepted at Broadlawns Medical Center. Since July 2007, when premiums were no longer required for members with income at or below 100 percent of the federal poverty level, the number of members paying premiums at Broadlawns has decreased to the point that it is not cost-effective to have staff from the Iowa Medicaid Enterprise Member Services Unit stationed at Broadlawns to accept payments. As of July 1, 2008, if a member brings a payment to Broadlawns, Broadlawns Medical Center staff will provide the member with a postage-paid envelope to mail the premium to the Iowa Medicaid Enterprise. The Iowa Medicaid Enterprise has mailed a notice of this change to IowaCare members living in Polk, Warren, Jasper, Dallas, and Story Counties.

These amendments do not provide for waivers in specified situations because the change in access to drugs for smoking cessation constitutes a benefit and because any waiver of the premium policy would require maintaining staffing at Broadlawns Medical Center.

The Council on Human Services adopted these amendments on July 9, 2008.

The Department finds that these amendments confer a benefit on IowaCare members by allowing easier access to drugs for smoking cessation. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code chapter 249J.

These amendments shall become effective on August 1, 2008.

The following amendments are adopted.

ITEM 1. Amend paragraph **92.7(2)"a"** as follows:

a. Method of payment. Members shall submit premium payments to the following address: Iowa Medicaid Enterprise, IowaCare Premiums, P.O. Box 10391, Des Moines, Iowa 50306-9013. ~~Members may also submit premium payments to the Broadlawns Medical Center or other designated office that makes arrangements for armored delivery of the payments to the department's agent for receiving payments.~~

ITEM 2. Amend subrule **92.8(1)**, introductory paragraph, as follows:

92.8(1) Provider network. Except as provided in subrules 92.8(3) ~~and 92.8(4)~~ through 92.8(5), IowaCare members shall have medical assistance only for services provided to the member by:

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 3. Adopt the following **new** subrule 92.8(5):

92.8(5) *Drugs for smoking cessation.* IowaCare members may obtain outpatient prescription drugs for smoking cessation that are related to another appropriately billed IowaCare service from any pharmacy participating in the Iowa Medicaid program.

[Filed Emergency After Notice 7/9/08, effective 8/1/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 6989B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency

Pursuant to the authority of 2008 Iowa Acts, House File 2212, the Department of Public Health hereby adopts new Chapter 153, "Smokefree Air," Iowa Administrative Code.

The purpose of these rules is to implement the Smokefree Air Act as enacted by 2008 Iowa Acts, House File 2212.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because these rules supplement and provide direction for implementing legislation that became effective July 1, 2008.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules should be waived and these rules should be made effective on July 1, 2008, as the guidance in these rules benefits those persons who must comply with the Smokefree Air Act that became effective July 1, 2008.

These rules were adopted by the State Board of Health on June 27, 2008.

These rules are also published herein under Notice of Intended Action as **ARC 6990B** to allow for public comment. This emergency filing permits the Department to implement Iowa's Smokefree Air Act on July 1, 2008.

These rules are intended to implement 2008 Iowa Acts, House File 2212.

These rules became effective July 1, 2008.

The following amendment is adopted.

Adopt the following **new** 641—Chapter 153:

CHAPTER 153
SMOKEFREE AIR

641—153.1(82GA, HF2212) Purpose and scope. The purpose of these rules is to implement Iowa's Smokefree Air Act, enacted to reduce the level of exposure by the general public and employees to environmental tobacco smoke in order to improve the public health of Iowans. These rules apply to public places, places of employment, and certain outdoor areas in the state.

641—153.2(82GA, HF2212) Definitions. For the purposes of this chapter, the following definitions shall apply:

"*Ashtray*" means any receptacle, including a can, bottle, bowl, tray, or other vessel that is used for extinguishing or disposing of any lighted cigar, cigarette, pipe, or other tobacco product in any manner or form including ash, cigarette butts or filters, or cigar stubs. However, "ashtray" shall not include any receptacle located outdoors and on the perimeter of any public place, the perimeter of the grounds of any public building, the perimeter of school grounds, or the perimeter of any other outdoor space subject to the prohibition in 2008 Iowa Acts, House File 2212, section 3, and rule 641—153.3(82GA, HF2212).

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“*Bar*” means an establishment where one may purchase alcoholic beverages, as defined in Iowa Code section 123.3, for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

“*Child care facility*” means child care facility as defined by the department of human services pursuant to Iowa Code section 237A.1.

“*Child care home*” means child care home as defined by the department of human services pursuant to Iowa Code section 237A.1.

“*Department*” means the Iowa department of public health.

“*Entrance*” means any doorway to an enclosed area used by the public or employees for ingress or egress to or from any public place or place of employment. “*Entrance*” also includes the commonly understood points of entry and exit to and from an outdoor area such as a driveway, sidewalk, pathway, access road, gate, or dedicated point of entry.

“*Gaming floor*” means gaming floor as defined by the state racing and gaming commission pursuant to Iowa Code section 99F.1.

“*Grounds of any public building*” means an outdoor area of a public building that is used in connection with the building, including but not limited to a sidewalk immediately adjacent to the building; a sitting or standing area immediately adjacent to the building; a patio; a deck; a curtilage or courtyard; a swimming or wading pool; a beach; or any other outdoor area as designated by the person having custody or control of the public building. A person having custody or control of a public building may exclude from the designated grounds of any public building the following: a parking lot, the course of play at a golf course, a hiking trail, locations of an individual campsite or campfire, or a lake, river, or other body of water. Nothing in this definition prohibits any owner, operator, manager, or other person having custody or control of an area that is exempt from the prohibitions of 2008 Iowa Acts, House File 2212, section 3, and rule 641—153.3(82GA, HF2212) from declaring the entire area or property a nonsmoking place.

“*Hotel and motel*” means any building or structure equipped, used, advertised as, or held out to the public to be an inn, hotel, motel, motor inn, or place where sleeping accommodations are furnished for hire to transient guests.

“*Incidental to the sale of tobacco products*” means that the gross revenue of a retail tobacco store derived from the sale of products other than tobacco products is not more than 20 percent of the retail tobacco store’s total gross revenue.

“*Infiltrate*” means to permeate an area where smoking is prohibited by passing through a wall, ceiling, floor, window, door, or ventilation system to the extent that an individual can smell secondhand smoke.

“*Public or private educational facility*” means a public school and nonpublic school as defined in Iowa Code section 280.2, a community college as defined in Iowa Code section 260C.2, an accredited private institution as defined in Iowa Code section 261.9, and an institution governed by the board of regents pursuant to Iowa Code section 262.7.

“*Restaurant*” means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

“*Retail tobacco store*” means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is incidental to the sale of tobacco products.

“*Seating areas of outdoor sports arenas, stadiums, amphitheaters, or other entertainment venues*” means areas designated by the owner, operator, manager, or other person having custody or control of the area to be used primarily to witness entertainment events and shall include, but not be limited to, all chairs, seats, and bleachers whether permanent or temporary; standing room only; general admission or festival-style seating; and any other areas where individuals congregate to witness entertainment events.

“*Serving of food incidental to the consumption of alcoholic beverages*” means food preparation that is limited to the service of ice, prepackaged snack foods, popcorn, peanuts, and the reheating of commercially prepared foods that do not require assembly, such as frozen pizza, prepackaged sandwiches, or other prepackaged, ready-to-serve products.

“*Smoking cessation program*” means a course of treatment that is capable of clinical review for evidence-based outcomes that verify that individuals in the program stop smoking and that has been

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approved for coverage by a private or managed health care plan, Medicaid, Medicare, the Veterans Health Administration, or the United States military.

641—153.3(82GA, HF2212) Prohibition of smoking.

153.3(1) *Public places, places of employment.* Smoking is prohibited and a person shall not smoke in either of the following areas:

a. Public places, as defined in 2008 Iowa Acts, House File 2212.

b. All enclosed areas within places of employment including but not limited to work areas, private offices, conference and meeting rooms, classrooms, auditoriums, employee lounges and cafeterias, hallways, medical facilities, restrooms, elevators, stairways and stairwells, and vehicles owned, leased, or provided by the employer unless otherwise provided under these rules and 2008 Iowa Acts, House File 2212.

153.3(2) *Outdoor areas.* Smoking is prohibited and a person shall not smoke in or on any of the following outdoor areas:

a. The seating areas of outdoor sports arenas, stadiums, amphitheaters and other entertainment venues where members of the general public assemble to witness entertainment events.

b. Outdoor seating or serving areas of restaurants.

c. Public transit stations, platforms, and shelters under the authority of the state or its political subdivisions.

d. School grounds, including parking lots, athletic fields, playgrounds, tennis courts, and any other outdoor area under the control of a public or private educational facility, including inside any vehicle located on such school grounds.

e. The grounds of any public buildings owned, leased, or operated by or under the control of the state government or its political subdivisions, including the grounds of a private residence of any state employee any portion of which is open to the public with the following exceptions:

(1) This paragraph shall not apply to the Iowa state fairgrounds, or fairgrounds as defined in Iowa Code section 174.1.

(2) This paragraph shall not apply to institutions administered by the department of corrections, except that smoking on the grounds shall be limited to designated smoking areas.

(3) This paragraph shall not apply to facilities of the Iowa National Guard as defined in Iowa Code section 29A.1, except that smoking on the grounds shall be limited to designated smoking areas.

641—153.4(82GA, HF2212) Areas where smoking not regulated. Notwithstanding any provision of these rules and 2008 Iowa Acts, House File 2212, to the contrary, the following areas are exempt from the prohibitions of 2008 Iowa Acts, House File 2212, section 3:

153.4(1) Private residences, unless used as a child care facility, child care home, or a health care provider location.

153.4(2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided that not more than 20 percent of the rooms of a hotel or motel rented to guests are designated as smoking rooms, all smoking rooms on the same floor are contiguous, and smoke from smoking rooms does not infiltrate into areas in which smoking is otherwise prohibited under these rules. The status of smoking and nonsmoking rooms shall not be changed, except to provide additional nonsmoking rooms.

153.4(3) Retail tobacco stores, provided that smoke from these locations does not infiltrate into areas in which smoking is otherwise prohibited under these rules.

153.4(4) Private and semiprivate rooms in long-term care facilities, occupied by one or more individuals, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted, provided that smoke from these locations does not infiltrate into areas in which smoking is otherwise prohibited under these rules and 2008 Iowa Acts, House File 2212.

153.4(5) Private clubs that have no employees, except when being used for a function to which the general public is invited, provided that smoke from these locations does not infiltrate into areas in which smoking is otherwise prohibited under these rules and 2008 Iowa Acts, House File 2212. This exemption shall not apply to any entity that is established for the purpose of avoiding compliance with these rules and 2008 Iowa Acts, House File 2212.

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153.4(6) Outdoor areas that are places of employment except those areas where smoking is prohibited pursuant to 2008 Iowa Acts, House File 2212, section 3, subsection 2.

153.4(7) Limousines under private hire; vehicles owned, leased, or provided by a private employer that are for the sole use of the driver and are not used by more than one person in the course of employment either as a driver or passenger; privately owned vehicles not otherwise defined as a place of employment or public place; and cabs of motor trucks or truck tractors if no nonsmoking employees are present.

153.4(8) An enclosed area within a place of employment or public place that provides a smoking cessation program or a medical or scientific research or therapy program, if smoking is an integral part of the program.

153.4(9) Farm tractors, farm trucks, and implements of husbandry when being used for their intended purposes.

153.4(10) Only the gaming floor of premises licensed pursuant to Iowa Code chapter 99F exclusive of any bar or restaurant located within the gaming floor which is an enclosed area and subject to the prohibitions of 2008 Iowa Acts, House File 2212, section 3.

153.4(11) The Iowa veterans home.

641—153.5(82GA, HF2212) Duties of employers, owners, operators, managers, and persons having custody or control of a public place, place of employment, area declared nonsmoking pursuant to 2008 Iowa Acts, House File 2212, section 5, or outdoor areas where smoking is prohibited.

153.5(1) The employer, owner, operator, manager, or person having custody or control of a place where smoking is prohibited under 2008 Iowa Acts, House File 2212, shall:

a. Not permit smoking in a public place, place of employment, outdoor area where smoking is prohibited, or an area declared nonsmoking pursuant to 2008 Iowa Acts, House File 2212, section 5.

b. Inform all current employees and all prospective employees upon application for employment of the prohibitions of 2008 Iowa Acts, House File 2212.

c. Not retaliate against any employee, applicant for employment, or customer that exercises any rights under 2008 Iowa Acts, House File 2212, registers a complaint, or attempts to prosecute a violation of 2008 Iowa Acts, House File 2212.

d. Post signs in and at every entrance to the public place, place of employment, area declared nonsmoking, and outdoor area where smoking is prohibited that clearly and conspicuously inform persons that they are entering a no smoking facility or area.

(1) The signs shall be clear and conspicuous in or at the entrance where posted.

(2) The signs shall be at least 24 square inches in size and shall be in legible font type.

(3) The signs shall contain the words “No Smoking” or the international “no smoking” symbol; the telephone number for reporting complaints, 1-888-944-2247; and the department of public health Web site, www.IowaSmokefreeAir.gov.

e. Place no smoking signs in every vehicle that constitutes a public place, place of employment, or area declared nonsmoking pursuant to 2008 Iowa Acts, House File 2212, section 5.

(1) Such signs shall be clear and conspicuous from the exterior of the vehicle.

(2) The signs shall be at least 24 square inches, and in legible font type.

(3) The signs shall contain the words “No Smoking” or the international “no smoking” symbol; the telephone number for reporting complaints, 1-888-944-2247; and the department of public health Web site, www.IowaSmokefreeAir.gov.

(4) Nothing in this rule requires the placement of a sign in any vehicle that the director of the department of administrative services or the director of transportation orders to receive a regular registration plate pursuant to Iowa Code section 321.19.

f. Remove all ashtrays from areas where smoking is prohibited.

153.5(2) The owner or operator of a building or facility that contains more than one public place, place of employment, or area declared nonsmoking pursuant to 2008 Iowa Acts, House File 2212, section 5, which is controlled by other employers, owners, or operators shall comply with the provisions of subrule 153.5(1) for the area of the building or facility under the owner or operator’s control.

153.5(3) An employer, owner, or operator of a public place, place of employment or area declared nonsmoking pursuant to 2008 Iowa Acts, House File 2212, section 5, that is within a public place that is

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owned or operated by another person shall comply with the provisions of subrule 153.5(1) for the area under the control of the employer, owner, or operator within that public place.

153.5(4) An employer, owner, operator, manager, or person having custody or control of a place where smoking is prohibited under 2008 Iowa Acts, House File 2212, shall inform any individual smoking in a place where smoking is prohibited that the individual is violating the smokefree air Act and shall request that the individual stop smoking immediately.

a. If the individual refuses to stop smoking, the employer, owner, operator, manager, or person having custody or control of the place where smoking is prohibited may discontinue service to that individual.

b. If the individual refuses to stop smoking, the employer, owner, operator, manager, or person having custody or control of the place where smoking is prohibited may request that the individual leave the area where smoking is prohibited.

c. If the individual refuses to leave the area where smoking is prohibited, the employer, owner, operator, manager, or person having custody or control of the place where smoking is prohibited may notify the state or local law enforcement agency with jurisdiction over the area where smoking is prohibited.

641—153.6(82GA, HF2212) Duties of other state agencies and political subdivisions. A state agency or political subdivision which inspects public places shall assess compliance with the requirements of these rules and 2008 Iowa Acts, House File 2212, during any inspection process and shall report any violations of 2008 Iowa Acts, House File 2212, to the department.

641—153.7(82GA, HF2212) Leases. Any lease entered into by the state or its political subdivisions on or after July 1, 2008, shall require that all areas where smoking is prohibited in 2008 Iowa Acts, House File 2212, section 3, comply with the provisions of 2008 Iowa Acts, House File 2212.

641—153.8(82GA, HF2212) Complaints and enforcement.

153.8(1) Duties of department. The department shall maintain a system for receiving and investigating complaints against persons who own, operate, manage, or otherwise have custody or control of a place where smoking is prohibited and who fail to comply with the provisions of 2008 Iowa Acts, House File 2212.

a. Pursuant to 2008 Iowa Acts, House File 2212, section 9, subsection 7, the department may designate one or more public agencies through a 28E agreement or other written contract to assist with the enforcement of 2008 Iowa Acts, House File 2212.

b. The department may refer complaints regarding a violation of 2008 Iowa Acts, House File 2212, to the law enforcement authorities of the state or of the political subdivision of the state in which the alleged violation occurred.

153.8(2) Enforcement against a person who smokes in an area where smoking is prohibited. Pursuant to 2008 Iowa Acts, House File 2212, section 9, subsection 7, the department designates the law enforcement authorities of the state and of each political subdivision of the state to assist with the enforcement of 2008 Iowa Acts, House File 2212. A peace officer may issue a citation in lieu of arrest pursuant to Iowa Code chapter 805 against a person who smokes in an area where smoking is prohibited pursuant to 2008 Iowa Acts, House File 2212, and such person shall pay a civil penalty pursuant to Iowa Code section 805.8C(3) "a" for each violation.

153.8(3) Enforcement against a person who owns, operates, manages, or otherwise has control of a place where smoking is prohibited. Pursuant to 2008 Iowa Acts, House File 2212, section 9, subsection 7, the department designates the law enforcement authorities of the state and of each political subdivision of the state to assist with the enforcement of 2008 Iowa Acts, House File 2212. The department or its designee may initiate a civil action against an owner, operator, manager, or person who otherwise has custody or control of a place where smoking is prohibited pursuant to 2008 Iowa Acts, House File 2212, and such person shall pay the applicable civil penalty pursuant to 2008 Iowa Acts, House File 2212, section 9.

153.8(4) Manner of filing a complaint. Any person may register a complaint with the department by calling the toll-free number, 1-888-944-2247, or registering a complaint on the department's Web site, www.IowaSmokefreeAir.gov, or downloading a complaint form from the department's Web site and mailing

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the complaint form to the department at Department of Public Health, Division of Tobacco Use Prevention and Control, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319.

153.8(5) Contents of the complaint. A complaint filed with the department shall include:

- a. The name and contact information of the person making the complaint;
- b. The name or location of the public place, place of employment, area declared a nonsmoking place pursuant to 2008 Iowa Acts, House File 2212, section 5, or outdoor area where smoking is prohibited which is the subject of the complaint;
- c. A description of the occurrence that prompted the complaint; and
- d. Any other information relevant to the occurrence.

153.8(6) Review of complaint by department. Upon receipt of a complaint, the department or its designee may contact the individual making the complaint to confirm the details of the complaint and obtain any additional information.

153.8(7) Information from inspections. Information received by the department pursuant to rule 641—153.6(82GA, HF2212) of one or more violations of 2008 Iowa Acts, House File 2212, as a result of an inspection of a public place by the state or political subdivision of the state shall be considered a credible complaint under this rule.

153.8(8) Notice of violation. If the department determines that a complaint against a public place, place of employment, area declared nonsmoking pursuant to 2008 Iowa Acts, House File 2212, section 5, or outdoor areas where smoking is prohibited is credible, the department shall:

- a. For the first complaint.
 - (1) Issue a written notice of violation to the owner, operator or person having custody or control including the details of the complaint.
 - (2) The notice shall include educational materials about how to comply with 2008 Iowa Acts, House File 2212, and information on whom to contact for further information and assistance for compliance.
- b. For the second complaint in one year.
 - (1) Issue a second notice of violation to the owner, operator, or person having custody and control.
 - (2) In addition, the department may authorize one or more public agencies to conduct a compliance check of the location.
 - (3) In addition, the department may pursue the civil penalties provided for in 2008 Iowa Acts, House File 2212, section 9, subsection 2; may refer the complaint to the appropriate authority for enforcement of the civil penalties provided for in 2008 Iowa Acts, House File 2212, section 9, subsection 2; or may pursue any other remedy authorized by 2008 Iowa Acts, House File 2212.
- c. For the third and subsequent complaints of a violation within one year.
 - (1) Issue a subsequent notice of violation and authorize one or more public agencies to conduct a compliance check of the location.
 - (2) In addition, the department may pursue the civil penalties provided for in 2008 Iowa Acts, House File 2212, section 9, subsection 2; may refer the complaint to the appropriate authority for enforcement of the civil penalties provided for in 2008 Iowa Acts, House File 2212, section 9, subsection 2; or may pursue any other remedy authorized by 2008 Iowa Acts, House File 2212.

641—153.9(82GA, HF2212) Limitation of rules. Nothing in these rules is intended to limit any other state administrative rule or federal regulation that prohibits smoking.

These rules are intended to implement 2008 Iowa Acts, House File 2212.

[Filed Emergency 6/30/08, effective 7/1/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 6986B**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby amends Chapter 6, "Vehicle Impoundment," Iowa Administrative Code.

The U.S. Supreme Court (Fla. v. Wells, 110 Sup. Ct. 1632) has held that if a law enforcement agency inventories impounded vehicles, any contraband found during an inventory is inadmissible evidence in a subsequent criminal case unless the agency has a written policy requiring inventories of impounded vehicles. Iowa Administrative Code 661—Chapter 6 was adopted as the required written policy.

Officers of the Department of Public Safety are required by subrule 6.4(2) to conduct an inventory within 24 hours of impoundment of any vehicle. This may be impracticable under emergency conditions, either because officers are urgently needed for duties directly related to an emergency or because large numbers of vehicles may be impounded in a short period during an emergency. The amendment adopted herein allows for the 24-hour period to be extended in emergencies.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is imperative that the written policy for inventories of impounded vehicles immediately reflect actual practice.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment be made effective July 1, 2008, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by ensuring that the written policy of the Department of Public Safety for inventories of impounded vehicles is consistent with actual practice and is in compliance with the requirements established by the U.S. Supreme Court in Florida v. Wells.

This amendment is also being proposed in a Notice of Intended Action in order to allow for public comment. The Notice is published herein as **ARC 6999B**.

This amendment became effective July 1, 2008.

This amendment is intended to implement Iowa Code section 321.89 and Florida v. Wells, 110 Sup. Ct. 1632.

The following amendment is adopted.

Amend subrule 6.4(2) as follows:

6.4(2) Within 24 hours of towing an impounded vehicle, the officer shall:

a. Complete an inventory of all property in the vehicle and a notation of any parts of the vehicle which appear to be missing or damaged. The inventory shall include a list of the contents of each container in the vehicle. Each container shall be opened unless the contents of a particular container are evident from its exterior. If keys, a locksmith, or other means of access are not reasonably available to the officer, the officer is authorized to break locks to gain access to the vehicle and its locked compartments. The inventory is a record which is intended for use in ensuring the safe return of the lawful possessor's property and resolving questions regarding the condition or contents of the vehicle.

b. Add to the vehicle tow-in and recovery report information indicating the circumstances of recovery of the vehicle and notification of the owner if the vehicle is believed to be stolen or operated without the consent of the owner.

EXCEPTION: The inventory and completion of the report may be delayed beyond 24 hours after towing of the impounded vehicle has occurred if completion within a 24-hour period is rendered impracticable by road or weather conditions or by the volume of impounded vehicles requiring processing during a limited period of time. Such an extension of time shall be granted automatically if the office processing the vehicles is affected by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 and may otherwise be granted by written permission of the commander of the district or zone office or another supervisor designated by the commander of the officer responsible for processing an impounded vehicle. The reason for any delay in completing the inventory and report beyond 24 hours after towing a vehicle shall be

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noted in the report. In any event, the inventory and report shall be completed as soon as practicable after towing the vehicle.

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ARC 6987B**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 690.1, the Department of Public Safety hereby amends Chapter 11, "Identification Section of the Division of Criminal Investigation," Iowa Administrative Code.

Iowa Code chapter 690 requires that each local law enforcement agency in the state take fingerprints of any unidentified dead bodies and of any persons taken into custody for a serious misdemeanor or greater offense. Both the statutory language and the rules require the submission of those fingerprints to the Department within two working days.

Rapid submission of fingerprints, while desirable, is not always practicable, particularly for local agencies affected by emergency conditions. This amendment addresses this concern by defining the term "working day," which currently is not defined in the Iowa Code or in the Department's administrative rules. The definition clarifies that no day is counted toward the "two working days" deadline if it is a Saturday, Sunday, state holiday, federal holiday during which the administrative office of the submitting agency is closed, or day during which that office is closed because of emergency conditions.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is desirable that the requirement for the submission of fingerprints within two working days be clarified as soon as possible.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment be made effective July 1, 2008, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by immediately clarifying requirements for timely submission of fingerprints by local law enforcement agencies to the Department, so that both the Department and local agencies may ensure compliance with the law.

This amendment is also being proposed in a Notice of Intended Action in order to allow for public comment. The Notice is published herein as **ARC 7000B**.

This amendment became effective July 1, 2008.

This amendment is intended to implement Iowa Code section 690.2.

The following amendment is adopted.

Adopt the following **new** definition in rule **661—11.2(17A,690,692)**:

"*Working day*" means any day except any of the following:

1. Saturday.
2. Sunday.
3. State holiday.
4. Federal holiday during which the administrative office of the submitting agency is closed.
5. Any day during which the administrative office of the agency is closed or relocated due to weather or road conditions or any condition related to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6.

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ARC 6985B**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 80A.15, the Department of Public Safety hereby amends Chapter 121, "Bail Enforcement, Private Investigation, and Private Security Businesses," Iowa Administrative Code.

Iowa Code chapter 80A establishes the state's licensing program for bail enforcement, private investigative, and private security businesses and assigns authority for administering the licensing program to the Department of Public Safety, including the authority to adopt administrative rules for the program. Those rules currently provide for issuance of duplicate licenses to substitute for licenses that have been lost or destroyed and require payment of a \$5 fee. The amendments adopted herein provide for issuance of replacement licenses at no charge when a license has been lost or destroyed due to conditions that have been a basis for issuance of a disaster emergency proclamation by the Governor.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable that licensees whose licenses have been lost due to disaster conditions be able to obtain replacement licenses at no charge as quickly as possible.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments be made effective July 1, 2008, after filing with the Administrative Rules Coordinator. These amendments confer a benefit upon the public by immediately allowing licensees whose licenses have been lost or destroyed in disaster conditions to obtain replacement licenses at no cost, thus enabling them to demonstrate their qualifications to operate a bail enforcement, private investigative, or private security business to any prospective client.

These amendments are also being proposed in a Notice of Intended Action in order to allow for public comment. The Notice is published herein as **ARC 6998B**.

These amendments became effective on July 1, 2008.

These amendments are intended to implement Iowa Code chapter 80A.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions in rule **661—121.2(80A)**:

"*Duplicate license*" means a license that is issued to substitute for a license that has been lost or destroyed, except that a "duplicate license" shall not mean a "replacement license" as defined herein.

"*Replacement license*" means a license that is issued to substitute for a license that has been lost or destroyed as a result of damage from flooding, storms or other conditions which form a basis for issuance of a disaster emergency proclamation by the governor pursuant to Iowa Code section 29C.6.

ITEM 2. Adopt the following **new** rule 661—121.24(80A):

661—121.24(80A) Replacement license. The commissioner shall issue a replacement license upon receiving a written statement that the original license has been lost, destroyed, stolen or otherwise rendered useless by damage from flooding, storms or other conditions which form a basis for issuance of a disaster emergency proclamation by the governor pursuant to Iowa Code section 29C.6. If the original license is recovered, the original or the replacement will be returned immediately to the department. No fee shall be charged for the issuance of a replacement license.

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ARC 6984B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 100C.7, the State Fire Marshal hereby amends Chapter 275, "Certification of Automatic Fire Extinguishing System Contractors," Iowa Administrative Code.

Iowa Code chapter 100C establishes the Fire Extinguishing System Contractor Certification Program under the State Fire Marshal. Fees for certification are established by administrative rule (661—275.5(100C)), including a fee for issuance of an amended certification. Relocation of a business to a new address would constitute a material change requiring an amended certification. The amendment adopted herein provides that if the relocation of a certified contractor stems from conditions related to a disaster emergency proclamation issued by the Governor, then the amended certificate shall be issued at no charge to the contractor.

Pursuant to Iowa Code section 17A.4(2), the State Fire Marshal finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is desirable that contractors who relocate because of disaster emergency conditions be able to retain their certification without additional cost and that this provision be in effect as quickly as possible.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the State Fire Marshal further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment be made effective July 1, 2008, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by immediately removing a barrier to contractors who need to obtain an amended license because they have relocated due to disaster emergency conditions.

This amendment is also being included in a Notice of Intended Action in order to allow for public comment. The Notice is published herein as **ARC 7005B**.

This amendment became effective July 1, 2008.

This amendment is intended to implement Iowa Code chapter 100C.

The following amendment is adopted.

Amend subrule 275.5(4) as follows:

275.5(4) Amended certification fee. The fee for issuance of an amended certification is \$100. The fee shall be submitted with the request for an amended certification. A contractor shall request and the fire marshal shall issue an amended certificate for any of the following items listed in paragraphs "a," "b," and "c":

a. A change in the designation of a responsible managing employee;

b. A change in insurance coverage; or

c. A change in any other material information included in or with the initial or renewal application. A change in the address of the business is a material change. However, if the request for an amended certificate is solely a change of business address, the address of the business to which the certificate being amended was sent is in an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6, and the relocation occurs as a result of flooding or storm damage or other conditions which form a basis for the issuance of the disaster emergency proclamation, the fee shall not apply, although an amended certificate shall be issued.

d. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the fire marshal but shall not require issuance of an amended certification or payment of the amended certification fee.

[Filed Emergency 6/30/08, effective 7/1/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7007B**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby amends Chapter 322, "State Building Code—Manufactured Housing Support and Anchorage Systems," and adopts new Chapter 323, "Temporary Emergency Use of Factory-Built Structures—Commercial Use," Iowa Administrative Code.

Responsibility for establishing standards for the installation of factory-built structures is assigned to the Building Code Commissioner. These standards are adopted as part of the State Building Code, with the approval of the Building Code Advisory Council. Rules establishing standards for installation of manufactured housing were recently reorganized, effective July 1, 2008, into new Chapter 322 of the rules of the Department of Public Safety, and then amended, also effective July 1, 2008, by an emergency rule making which allows for temporary emergency use of manufactured housing which does not meet all of the installation requirements that would normally apply. The amendments adopted herein further facilitate temporary emergency use of manufactured homes to alleviate critical housing needs of persons displaced by recent flooding or tornadoes and also facilitate provision of temporary emergency locations for businesses displaced by flooding or tornadoes.

In order to facilitate rapid availability of housing, an amendment adopted herein allows for temporary occupancy of manufactured housing without compliance with the usual requirements for support systems for installed units. The units installed under the provision adopted herein would be for use for up to 18 months only, unless reinstalled in compliance with all of the standards that normally apply to such installations. Emergency relocation of businesses whose usual place of business has been rendered unusable by flooding, storm damage or any other condition which is a basis for a disaster emergency proclamation is facilitated by an amendment allowing for the use for up to 18 months of factory-built structures which are not intended to be placed on permanent foundations, provided that manufacturers' specifications for installation and maintenance of the units are met.

Pursuant to Iowa Code section 17A.4(2), the Building Code Commissioner finds that notice and public participation prior to the adoption of these amendments are impracticable. There is an immediate need for additional manufactured housing and temporary business locations to be available in Iowa in order to address damage to structures stemming from widespread disasters, and these amendments will allow for these to be available in a timely fashion.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments be made effective July 10, 2008, after filing with the Administrative Rules Coordinator. These amendments confer a benefit upon the public by enabling additional manufactured housing and temporary structures for business operations to be installed in Iowa to address needs stemming from widespread disasters.

These amendment are also being proposed in a Notice of Intended Action in order to allow for public comment. The Notice is published herein as **ARC 7008B**.

These amendments became effective July 10, 2008.

These amendments are intended to implement Iowa Code section 103A.9.

The following amendments are adopted.

ITEM 1. Adopt the following **new** paragraph **322.11(1)"e"**:

e. Only in areas subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6, in compliance with subrule 322.11(4).

ITEM 2. Adopt the following **new** subrule 322.11(4):

322.11(4) In an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6, a manufactured home may be installed without a permanent support system provided that all of the following apply:

a. The installation complies with anchorage requirements and aboveground support requirements specified by the manufacturer or specified in subrule 322.11(3) as applicable;

PUBLIC SAFETY DEPARTMENT[661](cont'd)

b. A government agency or a third-party contractor is contractually obligated to regularly inspect the home while it is occupied and to loosen the ties or straps used in the anchoring system as needed between November 15 of each year and April 15 of the following year, in order to prevent frost heave from affecting the home, and to retighten the ties or straps on or after April 15 and prior to May 15 of the following year; and

c. The home shall be vacated within 18 months after installation without a support system which is fully compliant with subrules 322.11(1), 322.11(2), and 322.11(3). A home installed in compliance with this subrule may continue to be occupied if it has been reinstalled in compliance with the provisions of this rule that would apply in the absence of a proclaimed disaster emergency.

ITEM 3. Adopt the following new 661—Chapter 323:

CHAPTER 323

TEMPORARY EMERGENCY USE OF FACTORY-BUILT STRUCTURES—COMMERCIAL USE

661—323.1(103A) Temporary factory-built structures for commercial use. A factory-built structure, as defined in Iowa Code section 103A.3, may be installed and used as a temporary location for a business or commercial operation, provided that all of the following apply:

323.1(1) The installation is in an area currently subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6.

EXCEPTION: If outside any area covered by a current disaster emergency proclamation, the installation is approved in writing by the building code commissioner provided that all of the other requirements of this rule are met.

323.1(2) The structure was manufactured to be installed without a permanent foundation.

323.1(3) The installation fully complies with all applicable installation requirements established by the manufacturer.

EXCEPTION: If specifications provided by the manufacturer provide for the use of both a support system and an anchoring system, a structure may be installed without a permanent support system, provided that an anchoring system is installed in compliance with specifications provided by the manufacturer and the owner or occupant ensures that straps or ties are loosened to prevent the structure from suffering damage from frost heave as needed between November 15 of any year during which it is in use and April 15 of the following year. The straps or ties must be retightened on or after April 15 and no later than May 15 of the following year.

323.1(4) The owner ensures full compliance with all maintenance requirements established by the manufacturer.

323.1(5) The structure meets all requirements of other applicable codes for the use of the structure, except that a structure installed in compliance with this rule is not required to display an Iowa seal as otherwise required by 661—subrules 16.610(21), 16.610(22), and 16.610(24).

323.1(6) The structure is not used as a private residence.

323.1(7) The structure is vacated within 18 months of installation.

323.1(8) No portion of the structure is used as an educational occupancy, unless written permission for such use has been issued by the state fire marshal and the state building code commissioner.

323.1(9) No portion of the structure is used as a health care facility or portion of a health care facility unless written permission for such use has been issued by the state fire marshal and the state building code commissioner.

This rule is intended to implement Iowa Code section 103A.9.

[Filed Emergency 7/8/08, effective 7/10/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 6988B**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 103A.56, the Building Code Commissioner hereby amends Chapter 372, "Manufactured or Mobile Home Retailers, Manufacturers, and Distributors," Iowa Administrative Code.

Iowa Code chapter 103A, Division IV, assigns to the Building Code Commissioner responsibility for regulating the manufactured housing industry, including the licensing of manufactured home retailers, manufacturers, and distributors. The current rules establish a fee for a new license (\$100), which is prescribed in the statute and which requires that a new license be issued when a manufacturer or distributor relocates. The amendment adopted herein provides that if the relocation is due to conditions related to a disaster emergency, a new license is not required and an amended license shall be issued at no cost to the licensee.

Pursuant to Iowa Code section 17A.4(2), the Building Code Commissioner finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is desirable that licensees be allowed to relocate their place of business in times of disaster.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Building Code Commissioner further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment be made effective July 1, 2008, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by allowing manufactured home retailers, manufacturers, and distributors to relocate during disaster emergencies without a lapse in licensure.

This amendment is also being proposed in a Notice of Intended Action in order to allow for public comment. The Notice is published herein as **ARC 7006B**.

This amendment became effective July 1, 2008.

This amendment is intended to implement Iowa Code section 103A.52.

The following amendment is adopted.

Amend paragraph **372.8(4)"a"** as follows:

a. Any change in the name, method of doing business or location of the place of business as shown on the license and shall include a fee of \$100 in payment of a new license reflecting the change. However, a change in the location of the place of business when the original location is in an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 and when the relocation results from flooding, storm damage, or other conditions which form a basis for issuance of the disaster emergency proclamation shall not require the issuance of a new license. In these circumstances, an amended license shall be furnished to the licensee at no charge to the licensee.

[Filed Emergency 6/30/08, effective 7/1/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7047B**SECRETARY OF STATE[721]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby adopts an amendment to Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

This rule defines procedures for establishing and operating voting centers, which were authorized in 2008 Iowa Acts, House File 2620, division II. Division II of 2008 Iowa Acts, House File 2620, became effective on July 1, 2008.

SECRETARY OF STATE[721](cont'd)

In compliance with Iowa Code section 17A.4(2), the Secretary finds that notice and public participation are contrary to the public interest because the voting center concept is a new one in Iowa and county auditors who wish to take advantage of voting centers need guidance in their operation.

The Secretary also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of this rule should be waived and this rule should be made effective upon filing with the Administrative Rules Coordinator because the law authorizing voting centers is currently in effect and the adopted rule is of immediate importance to the election process.

This rule is also published herein under Notice of Intended Action as **ARC 7046B** in order to solicit public comment.

The Secretary of State adopted this rule on July 10, 2008.

This rule became effective July 11, 2008.

This rule is intended to implement 2008 Iowa Acts, House File 2620, division II.

The following amendment is adopted.

Adopt the following **new** rule 721—21.75(49):

721—21.75(49) Voting centers for certain elections. The commissioner may establish voting centers for the regular city election, city primary election, city runoff election, regular school election, and special elections.

21.75(1) Definition.

“*Voting center*” means a location established by the commissioner for the purpose of providing ballots to all registered voters who are qualified to vote in a particular jurisdiction for a regular city election, city primary election, city runoff election, regular school election, or special election.

21.75(2) Minimum requirements.

a. Establishment. One or more voting centers may be established in lieu of precinct polling places for the elections at which the use of voting centers is permitted.

b. Choices. Regular polling place sites that are accessible to people with disabilities may be used as voting centers for any election at which the use of voting centers is permitted. Other suitable locations may also be used.

c. Accessibility. A voting center is subject to the requirements of Iowa Code section 49.21 relating to accessibility to persons who are elderly and persons with disabilities and relating to the posting of signs.

21.75(3) Hours. Voting center hours shall be the same as permitted for an election pursuant to Iowa Code Supplement section 49.67. Except for school elections, a voting center that serves a jurisdiction which includes both unincorporated territory and a city with a population in excess of 3500 shall open at 7 a.m.

21.75(4) Publications. The location of each voting center shall be published in the notice of election by the commissioner in the same manner as the location of polling places is required to be published. The notice of election shall also include a description of the voting center in substantially the following form:

For the _____ election to be held on [date], voting centers will be available. Any registered voter of [jurisdiction name] may vote at any of the following places in this election:

[List addresses of voting centers.]

21.75(5) I-Voters use prohibited. The commissioner shall not provide direct access from voting centers to the I-Voters system on election day.

21.75(6) Operation of voting centers.

a. Election registers and voter lists. Each voting center shall have a list of all registered voters who are eligible to vote in that election. The voter list may be a paper list or may be available on computers in an electronic format, rather than as an interactive connection to I-Voters.

b. Election day registration at voting centers. A person who needs to register to vote may register and vote at a voting center provided that the person has appropriate identification and is a resident of the jurisdiction served by the voting center.

c. Ballots. Each voting center shall have all ballot styles necessary to provide a ballot to any voter who is eligible to vote in the election for the jurisdiction served by the voting center.

d. Precinct election officials. Voting centers shall be administered by a minimum of five precinct election officials selected pursuant to Iowa Code sections 49.12 to 49.16. These officials shall be trained before each

SECRETARY OF STATE[721](cont'd)

election and shall have specific instructions regarding the differences between voting centers and polling places.

21.75(7) Postelection review of voter participation.

a. Within 30 days after the election, the commissioner shall review the signed declarations of eligibility or the signed election registers from each voting center, and if any person is found to have voted in more than one voting center in the election, the commissioner shall immediately notify the county attorney.

b. The notice to the county attorney shall include a copy of the person's voter registration record and copies of the declarations of eligibility signed by the voter. The notice shall also include a reference to 2008 Iowa Acts, House File 2620, section 23(1A) "d," which reads as follows: "d. Pursuant to section 39A.2, subsection 1, paragraph "b", subparagraph (3), a person commits the crime of election misconduct in the first degree if the person knowingly votes or attempts to vote at more than one voting center for the same election." The notice shall also include a reference to Iowa Code section 39A.2(2), which reads as follows: "2. Election misconduct in the first degree is a class 'D' felony."

This rule is intended to implement 2008 Iowa Acts, House File 2620, division II.

[Filed Emergency 7/11/08, effective 7/11/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 6992B

SECRETARY OF STATE[721]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby adopts an amendment to Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

On May 6, 2008, the Governor signed 2008 Iowa Acts, House File 2663, the relevant portions of which became effective on July 1, 2008. The bill repeals the requirements for elections to approve or disapprove imposition of or changes in the local option sales and services tax for school infrastructure purposes (SILO). The local option tax has been replaced with a statewide penny sales tax that will be used for similar purposes. The new law requires that elections be held to extend or amend previously adopted revenue purpose statements that specify the uses of this sales tax revenue. This amendment rescinds the obsolete rule regarding SILO elections and replaces it with a rule that sets forth the form of ballot to be used whenever the adoption, amendment or extension of a revenue purpose statement is proposed.

In compliance with Iowa Code section 17A.4(2), the Secretary finds that notice and public participation are contrary to the public interest, because the law became effective on July 1, 2008, and there was not sufficient time to complete the normal rule-making process before then. This amendment became effective on July 1, 2008.

In compliance with Iowa Code section 17A.5(2)"b"(2), the Secretary finds that repealing obsolete rules and adopting new ballot forms that reflect the current law confer a benefit upon school districts that wish to place these questions on the ballot in the September election.

This amendment is also published herein under Notice of Intended Action as **ARC 6991B** to allow for public comment.

This amendment is intended to implement 2008 Iowa Acts, House File 2663, section 29.

The following amendment is adopted.

Rescind rule 721—21.803(423E) and adopt the following new rule in lieu thereof:

721—21.803(82GA, HF2663) Revenue purpose statement ballots. When a school district wishes to adopt, amend or extend the revenue purpose statement specifying the uses of the funds received from the secure an advanced vision for education fund, which is also referred to as the "penny sales and services tax for schools," the following ballot formats shall be used.

SECRETARY OF STATE[721](cont'd)

21.803(1) *Ballot to propose a revenue purpose statement.* The ballot for an election to propose a revenue purpose statement specifying the use of funds received from the secure an advanced vision for education fund shall be in substantially the following form:

(Insert letter to be assigned by the commissioner.)

Shall the following public measure be adopted?

- YES
- NO

Summary: To adopt a revenue purpose statement specifying the use of money from the penny sales and services tax for schools received by _____ School District.

In the _____ School District, the following revenue purpose statement, which specifies the use of the penny sales and services tax for schools (sales and services tax funds from the secure an advanced vision for education fund for school infrastructure) shall be adopted:

(Insert here the revenue purpose statement that was adopted by the school board and that states the intended uses of the funds by the school district. The use or uses must be among the approved uses of the tax that are authorized by 2008 Iowa Acts, House File 2663, section 29.)

21.803(2) *Ballot to amend a revenue purpose statement.* The ballot for an election to decide a change in the revenue purpose statement specifying the use of funds received from the secure an advanced vision for education fund shall be in substantially the following form:

(Insert letter to be assigned by the commissioner.)

Shall the following public measure be adopted?

- YES
- NO

Summary: To authorize a change in the use of money from the penny sales and services tax for schools received by _____ School District.

In the _____ School District, the revenue purpose statement, which specifies the use of the penny sales and services tax for schools (sales and services tax funds from the secure an advanced vision for education fund for school infrastructure) shall be changed.

Proposed uses. If the change is approved, the revenue purpose statement shall read as follows:

(Insert here the revenue purpose statement that was adopted by the school board and that states the intended uses of the funds by the school district. The use or uses must be among the approved uses of the tax that are authorized by 2008 Iowa Acts, House File 2663, section 29.)

Current uses. If the change is not approved, the funds shall continue to be used as follows:

(Insert here the current revenue purpose statement or list the current voter-approved uses of the funds by the school district, if the school infrastructure local option tax was adopted before the revenue purpose statement was required.)

21.803(3) *Ballot to extend a revenue purpose statement.* The ballot for an election to extend a revenue purpose statement specifying the use of funds received from the secure an advanced vision for education fund shall be in substantially the following form:

(Insert letter to be assigned by the commissioner.)

SECRETARY OF STATE[721](cont'd)

Shall the following public measure be adopted?

- YES
 NO

Summary: To authorize _____ School District to continue to spend money from the penny sales and services tax for schools for the previously approved uses until (specify date or insert amended date). _____ School District is authorized to extend the current revenue purpose statement which specifies use of the penny sales and services tax for schools (sales and services tax funds from the secure an advanced vision for education fund for school infrastructure) received from (date) until (specify date or insert amended date). If an extension is not approved, the current revenue purpose statement will expire on (date). If an extension is approved, the revenue purpose statement will read as follows:

(Insert here the revenue purpose statement, including the new expiration date, or an explanation that the revenue purpose statement will remain in effect until it is changed.)

This rule is intended to implement 2008 Iowa Acts, House File 2663, section 29.

[Filed Emergency 7/1/08, effective 7/1/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 6981B

SOIL CONSERVATION DIVISION[27]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 161C.2(4), the Division of Soil Conservation hereby amends Chapter 12, "Water Protection Practices—Water Protection Fund," Iowa Administrative Code.

The amendments increase the maximum dollar amount for the cost-share provisions concerning water protection practices relating to woodlands, native grasses and forbs.

Notice of Intended Action on the amendments was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6774B**. Several comments were received. Changes have been made in the amendments to allow for better and more accountable utilization of the new online computer program used by the Division. Fencing cost limits were consolidated into new subrule 12.84(10). The dollar limit for each tree or shrub used in a windbreak was stricken in paragraph 12.84(1)"a"; instead, the total maximum cost was increased.

These amendments were adopted on June 26, 2008.

The Division finds pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of these amendments should be waived and these amendments be made effective on June 26, 2008. The amendments confer a benefit to users by allowing better usage of the new computer program and by allowing the increased rates to be in effect for the new fiscal year.

These amendments do not contain a waiver but are subject to the Department's general waiver provision.

These amendments are intended to implement Iowa Code chapter 161C.

These amendments became effective on June 26, 2008.

The following amendments are adopted.

ITEM 1. Amend subrule 12.81(2) as follows:

12.81(2) Forest management plan required. A forest management plan approved by the forestry ~~division~~ bureau of the department of natural resources is required for the practices of timber stand improvement, tree planting, site preparation for natural regeneration, and rescue treatments.

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 2. Amend rule 27—12.84(161C) as follows:

27—12.84(161C) Cost-share rates. The following cost-share rates shall apply for eligible practices designated in rule 12.82(161C). The use of state cost-share funds alone or in combination with other public funds shall not exceed the limits established by these rules.

12.84(1) Windbreaks.

~~a. 75 percent of the actual cost, not to exceed \$15 per tree and \$2.25 per shrub, to establish or restore windbreaks.~~

~~b. — Actual cost, not to exceed \$8 per rod, for permanent fences, to protect planted area from grazing, excluding boundary and road fencing.~~

~~e. Total cost share for establishment, restoration, and fencing for windbreaks shall not exceed \$1200 per \$1500 for the total cost of the establishment or restoration of the windbreak.~~

12.84(2) Field windbreaks.

~~a. 75 percent of the actual cost, not to exceed \$365 \$450 per acre.~~

~~b. — Actual cost, not to exceed the lesser of \$8 per rod or \$45 per acre protected, for permanent fences, to protect planted area from grazing, excluding boundary and road fencing.~~

12.84(3) Timber stand improvement.

~~a. 75 percent of the actual cost, not to exceed \$75 \$120 per acre for prescribed woodland burning, thinning, pruning crop trees, or releasing seedlings or young trees.~~

~~b. — Actual cost, not to exceed the lesser of \$8 per rod or \$45 per acre protected, for permanent fences, to protect planted area from grazing, excluding boundary and road fencing.~~

12.84(4) Tree planting.

~~a. 75 percent of the actual cost, not to exceed \$365 \$450 per acre, for tree planting including the following:~~

- (1) Establishing ground cover,
- (2) Trees and tree-planting operations,
- (3) Weed and pest control,
- (4) Mowing, disking, and spraying.

~~b. 75 percent of the actual cost, not to exceed \$120 \$150 per acre for woody plant competition control.~~

~~e. — Actual cost, not to exceed the lesser of \$8 per rod or \$45 per acre protected, for permanent fences, to protect planted area from grazing, excluding boundary and road fencing.~~

12.84(5) Site preparation for natural regeneration.

~~a. 75 percent of the actual cost, not to exceed \$120 per acre of site preparation.~~

~~b. — Actual cost, not to exceed the lesser of \$8 per rod or \$45 per acre protected, for permanent fences, to protect treated area from grazing, excluding boundary and road fencing.~~

12.84(6) Riparian forest buffer. 75 percent of the actual cost or estimated cost, whichever is less.

12.84(7) Rescue treatment.

~~a. 75 percent of the actual cost, not to exceed \$60 per acre to establish alternate cover for competition control.~~

~~b. A one-time payment of 75 percent of the actual cost, not to exceed \$15 per acre to control damaging rodent populations.~~

~~c. 75 percent of the actual cost, not to exceed \$365 \$450 per acre, for plantation replanting including the following:~~

- (1) Establishing ground cover,
- (2) Trees and tree planting,
- (3) Weed control.

~~d. — \$2 per rod, not to exceed \$24 per acre, for temporary electric fencing to control deer browse damage.~~

12.84(8) Planned grazing systems. 75 percent of the actual cost or estimated cost, whichever is less. Does not include boundary fences or road fences. ~~Fencing limited to \$8 per rod.~~ Development of a water source is not eligible.

12.84(9) Conservation cover. 75 percent of the actual cost or estimated cost, whichever is less.

SOIL CONSERVATION DIVISION[27](cont'd)

12.84(10) Fencing systems. Fencing systems used to implement or protect a conservation practice described in rule 27—12.82(161C) are eligible for the lesser of 75 percent of the actual cost or the estimated cost. The fencing costs cannot exceed \$14 per rod for permanent fencing or \$5 per rod for temporary electric fencing. Fences along roads or land boundaries are not eligible.

[Filed Emergency After Notice 6/26/08, effective 6/26/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7021B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 35A.5 and 2008 Iowa Acts, Senate File 2124, the Department of Veterans Affairs hereby amends Chapter 14, "Veterans Trust Fund," Iowa Administrative Code.

The rules in Chapter 14 are amended to increase the usage of the trust fund, to improve administration of the trust fund, and to implement legislative changes enacted during the 2008 Session of the Iowa General Assembly.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are contrary to the public interest because of the need to implement legislative changes that will provide assistance to flood victims who are veterans that have contacted the Department for assistance. Changes to this chapter increase the assistance options for veterans seeking aid from the trust fund and provide for expanded eligibility guidelines.

The Department finds that these amendments confer a benefit upon veterans by conforming Chapter 14 rules to 2008 Iowa Acts, Senate File 2124, which adds areas in which the trust fund may assist needy veterans. Furthermore, 2008 Iowa Acts, Senate File 2124, provides that the Department can adopt emergency rules related to the trust fund. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(1) and (2), and the normal effective date of these amendments is waived.

These amendments are also published herein under Notice of Intended Action as **ARC 7022B** to solicit public comments.

No fiscal impact is anticipated.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2124.

These amendments became effective on July 9, 2008.

The following amendments are adopted.

ITEM 1. Amend rule 801—14.2(35A) as follows:

801—14.2(35A) Definition. For purposes of this chapter, "veteran" means the same as defined in Iowa Code section 35.1, or a resident of Iowa who served in the armed forces of the United States, completed a minimum aggregate of 90 days of active federal service, and was discharged under honorable conditions, or a former member of the national guard, reserve, or regular component of the armed forces of the United States who was honorably discharged due to injuries incurred while on active federal service that precluded completion of a minimum aggregate of 90 days of active federal service.

ITEM 2. Amend rule 801—14.3(35A) as follows:

801—14.3(35A) Eligibility. Veterans, their spouses, and their dependents applying for benefits available under subrules 14.4(1) through ~~14.4(6)~~ 14.4(9) must meet the following threshold requirements.

14.3(1) Income. For the purposes of this chapter, an applicant's household income, excluding VA pension benefits and service-connected disability income, shall not exceed ~~200~~ 300 percent of the federal poverty guidelines for the number of family members living in the primary residence in effect on the date the application is received by the county director of veterans affairs. Federal poverty guidelines shall be

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

those guidelines established by the Iowa department of human services for the veteran's family size. The commission shall adjust the guidelines on July 1 of each year to reflect the most recent federal poverty guidelines.

14.3(2) Resources. The department may not pay benefits under this chapter if the available liquid assets of the veteran are in excess of \$15,000. For the purposes of this chapter, "available liquid assets" means cash on hand, cash in a checking or savings account, stocks, bonds, certificates of deposit, treasury bills, money market funds and other liquid investments owned individually or jointly by the applicant and the applicant's spouse, unless the applicant and spouse are separated or are in the process of obtaining a divorce, but does not include funds deposited in IRAs, Keogh plans or deferred compensation plans, unless the veteran is eligible to withdraw such funds without incurring a penalty. Cash surrender value of life insurance policies, real property, established burial account, or a personal vehicle shall not be included as available liquid assets.

14.3(3) Funding from other sources. Applications shall not be approved if the applicant is eligible to receive aid from other sources to meet the purposes authorized in this chapter.

14.3(4) Additional requirements and limitations. Applicants must meet any additional requirements and are subject to any limitations which may be set out in this chapter or which may be established for a particular benefit.

ITEM 3. Amend rule 801—14.4(35A) as follows:

801—14.4(35A) Benefits available. Applications may be approved for any of the following purposes.

14.4(1) Travel expenses for wounded veterans, and their spouses, directly related to follow-up medical care. Travel expenses under this subrule include the unreimbursed cost of airfare, lodging, and a per diem of \$25 per day for required out-of-state medical travel. Spouses may be reimbursed for in-state lodging and a per diem of \$25 per day when visiting a veteran who is in a hospital for medical care related to a service-connected disability. The veteran or the veteran's spouse shall provide such evidence as the commission may require, which includes but is not limited to evidence the injury or disability is service-connected, the necessity of treatment in a particular facility, and documentation of expenses. The maximum amount for lodging reimbursement shall be \$90. The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$1,000.

14.4(2) Job training or college tuition assistance for job retraining.

a. The commission may pay a veteran not more than \$3,000 for retraining or postsecondary education to enable the veteran to obtain gainful employment. The commission may provide aid under this subrule if all of the following apply:

(1) The veteran is enrolled in a training course in a technical college or school, is enrolled in an accredited postsecondary institution, or is engaged in a structured on-the-job training program.

(2) The veteran is unemployed, ~~or~~ underemployed, or has received a notice of termination of employment.

(3) The commission determines that the veteran's proposed program, or current program, will provide retraining or initial training that could enable the veteran to find gainful employment. In making its determination, the commission shall consider whether the proposed program, or current program, provides adequate employment skills and is in an occupation for which favorable employment opportunities are anticipated.

(4) The veteran requesting aid has not received full reimbursement or payment from any other retraining or education scholarship programs and the veteran does not have other assets or income available to meet retraining or initial training expenses. Applicants requesting aid under this subrule will only be granted the unpaid portion of their tuition statement, and the payment will be made directly to the institution.

b. The veteran shall provide such evidence as the commission may require to satisfy the requirements of this subrule.

14.4(3) Unemployment or underemployment assistance during a period of unemployment or underemployment due to prolonged physical or mental illness or disability resulting from military service. The commission may provide subsistence payments only to a veteran who has suffered a loss of income due to prolonged physical or mental illness or disability resulting from military service. The commission may provide subsistence payments of up to \$500 per month of unemployment or underemployment to a veteran ~~on a month-to-month basis~~. No payment may be made under this subrule if

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the veteran has other assets or income available to meet basic subsistence needs. The veteran shall provide such evidence as the commission may require, which includes but is not limited to evidence that the mental illness or disability is service-connected and evidence that the veteran is unemployed or underemployed for the period of payments. To qualify as underemployed, the applicant must be currently working at an income that is below 300 percent of federal poverty guidelines due to limitations caused by the applicant's service-connected disability or illness. The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$3,000 and a lifetime maximum of \$6,000.

14.4(4) ~~Expenses relating to nursing facility or home care~~ *Expenses related to hearing care, dental care, vision care, or prescription drugs.*

a. The commission may provide health care aid to a veteran ~~residing in a long term care facility or under a formal home health care agreement~~ for dental care, including dentures; vision care, including eyeglass frames and lenses; ~~and~~ hearing care, including hearing aids; and prescription drugs that are not covered by the Veterans Affairs Medical Center.

b. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed \$2,500 for dental care, \$500 for vision care, ~~and~~ \$1,500 per ear for hearing care, and \$1,500 for prescription drugs.

c. The commission shall not provide health care aid under this subrule unless the aid recipient's health care provider agrees to accept, as full payment for the health care provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. Payment under this subrule will be provided directly to the health care provider. The commission shall not pay health care aid under this subrule if the available liquid assets of the veteran are in excess of ~~\$3,000~~ \$5,000.

d. Applicants for assistance under this subrule will be required to provide the commission with an unpaid bill for service or an estimated cost of service from the health care provider and documentation of the need for the service. For prescription drugs, the applicant must produce documentation of the need for the prescribed drug and documentation stating whether a generic drug is available or appropriate. The commission payment will not exceed an estimated cost of service by a health care provider.

14.4(5) ~~Benefits provided to children of disabled or deceased veterans.~~ The commission may provide a one time payment of \$250 to minor children of veterans who were disabled as a result of injuries or illness incurred while on active federal service or \$1,000 to minor children of veterans who died as a result of injuries or illness incurred while on active federal service, following September 11, 2001. Minor children claiming eligibility due to the disability or death of a veteran shall submit, through the parent or guardian of the child, evidence from the appropriate military service indicating that the veteran died or was disabled as a result of injuries or illness incurred while on active federal service. For the purposes of this subrule, "children" means any biological child or any adopted child. The applicant shall provide such evidence as the commission may require to satisfy the requirements of this subrule.

14.4(5) *Expenses relating to the purchase of durable equipment or services to allow veterans to remain in their homes.*

a. The commission may make reimbursement payments to veterans for the purchase of durable equipment that allows the veterans to remain in their homes or allows them the ability to utilize more of their home.

b. Individuals requesting reimbursement under this subrule will be required to provide verification of the purchase and installation of the equipment and information relating to the need for the equipment. Individuals may also provide a product and installation cost estimate to the commission for approval, with the understanding that the commission will pay no more than the cost estimate to the supplier or installer. Applicants needing durable equipment as a medical necessity should provide information from a physician.

c. Assistance under this subrule cannot duplicate assistance from other entities, and the maximum amount that may be paid may not exceed \$2,500.

d. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of \$5,000.

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14.4(6) Individual counseling or family counseling programs.

a. The commission may make mental health, substance abuse, and family counseling available to veterans and their families. Individual family members are eligible for counseling.

b. The assistance may include appropriate counseling and treatment programs for veterans and their families in need of services.

c. Any assistance provided under this subrule shall not duplicate other services readily available to veterans and their families. Veterans who are eligible for VA mental health services must initially visit their nearest VA medical facility for initial consultation and continued psychiatric treatment. Payment under this subrule will be made for additional services for the veteran in a location closer to the veteran's home and at a greater frequency than the VA medical center can accommodate.

d. The commission may provide up to \$150 per hour and \$75 per half-hour for outpatient counseling visits to providers who will accept as full payment for the counseling services the amount provided. Counseling and substance abuse services provided in a group setting may be paid up to \$40 per hour. Counseling and substance abuse services may also be provided in an inpatient setting, subject to the maximum amount eligible under 14.4(6) "f."

~~d. e.~~ The maximum amount that may be paid under this subrule for any consecutive 12-month period shall not exceed \$2,500 \$5,000. Individuals seeking counseling services are eligible for up to \$2,500, individuals seeking substance abuse treatment and counseling combined are eligible for up to \$3,500, and families seeking counseling services that may also include individual counseling and substance abuse services are eligible for up to \$5,000.

~~e. f.~~ The commission may not provide counseling under this subrule unless the aid recipient's counseling service provider agrees to accept, as full payment for the counseling services provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the ~~department~~ commission determines the veteran is capable of paying. The commission will make payment directly to the entity providing counseling and substance abuse services. The ~~department~~ commission shall not pay for counseling under this subrule if the available liquid assets of the veteran are in excess of \$3,000 \$5,000.

14.4(7) Expenses relating to ambulance and emergency room services for veterans who are trauma patients.

a. The commission may provide assistance to veterans for expenses related to ambulance trips, including air ambulance transportation, and emergency room visits for trauma patients or VA healthcare patients that cannot indicate to emergency personnel that they are to be presented to a VA medical center.

b. Funding through this subrule shall be paid directly to the entity providing the emergency service or transportation after the commission is provided with an unpaid bill. All efforts should be made to utilize all other methods of payment prior to accessing assistance under this subrule.

c. The maximum amount that may be paid under this subrule may not exceed \$5,000.

14.4(8) Emergency expenses related to vehicle repair, housing repair, or temporary housing assistance.

a. The commission may provide assistance to veterans for emergency vehicle repair, emergency housing repair, and temporary housing.

b. Assistance for vehicle repair is limited to expenses that are required for continued use of the vehicle. This assistance will only be granted in cases where the vehicle is needed for travel to and from work-related activities, the applicant is over the age of 65, or substantial hardship will occur if the vehicle is not repaired. Assistance may be provided in situations where the applicant does not have sufficient means to pay an insurance deductible. Assistance will be paid directly to the entity performing the maintenance or the insurance company owed the deductible. Assistance will not be provided for damage caused during the commission of a crime, for cosmetic needs, for damage resulting in an auto accident when automobile insurance has not been purchased, or for routine maintenance.

c. Assistance for home repair is limited to repairs that are required to improve the conditions and integrity of the home and are necessary for the safety and security of the residents. Applicants with homeowners insurance may request assistance for payment of a deductible. Assistance may be provided for applicants in disaster situations, home accidents, vandalism, or other situations as determined by the commission. In

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situations where a home is damaged beyond repair, assistance under this subrule is available to assist the applicant in purchasing a new home.

d. Assistance for transitional housing may be provided to applicants who are displaced from their home during a period of repairs related to a disaster, vandalism, home accident, or other reason that makes staying in the home hazardous to the health of the residents. Any refunded security deposits paid for under this subrule shall be returned to the Iowa veterans trust fund.

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed \$2,500 for vehicle repair, \$3,000 for housing repair, and \$1,000 for transitional housing.

f. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of \$3,000.

14.4(9) Expenses related to establishing whether a minor child is a dependent of a deceased veteran.

a. The commission may provide assistance to the family of veterans who are killed while serving on active federal service, for expenses related to paternity or maternity tests or the cost of procuring additional DNA samples from the deceased veteran. This assistance is available to determine whether a child is eligible for United States Department of Veterans Affairs war orphan benefits.

b. Applicants are required to provide the results of the paternity or maternity exams to the commission upon completion of the tests. Where the deceased veteran is not the parent of the child, the applicant will be required to repay the assistance received as provided in 801—14.6(35A).

c. The maximum amount that may be paid under this subrule is \$2,500.

~~14.4(7)~~ 14.4(10) Family support group programs or programs for children of members of the military.

a. The commission may award grants to unit family readiness/support groups, family support offices, and other such organizations providing support and programs to families and children of family members.

b. The grant shall be only for projects or programs which are not funded from any other source. The commission shall determine if the applicant's proposed project or program will provide the intended support. In making its determination, the commission shall consider whether the proposed program will provide anticipated favorable results.

c. The maximum amount of aid payable in a consecutive 12-month period under this subrule to a family readiness/support group is \$500.

~~14.4(8)~~ 14.4(11) Honor guard services.

a. The commission may reimburse veterans organizations for providing military funeral honors as follows:

(1) If a single veterans organization provides basic honors, \$25.

(2) If a single veterans organization provides full honors, \$50.

(3) If two or more veterans organizations participate in providing full honors and one of the organizations provides a firing detail, \$50. The organizations may request that the commission split the reimbursement.

(4) If two or more veterans organizations participate in providing basic honors, \$25. Payment shall be to one veterans organization, as determined by the commission.

b. Notwithstanding paragraph "a," the commission shall not reimburse a veterans organization if federal funding is available to reimburse the veterans organization for providing military funeral honors. The veterans organization shall request reimbursement from federal sources. If a veterans organization receives federal funding for providing military funeral honors at the reimbursement rate of one funeral per day, the department shall reimburse the organization for the provision of military funeral honors at any additional funerals on that day.

c. The maximum amount of aid payable in a consecutive 12-month period under this subrule to a veterans organization is \$500.

d. Veterans service organizations that are not currently providing honor guard services may apply for a \$500, up-front grant, for the use of creating a new honor guard within their organization. Applicants must present the commission with an estimated cost for purchasing uniforms and firearms for providing military honors and an estimated number of members who will be available to perform honor guard services. Organizations should also provide information regarding how they plan to pay for additional expenses that may occur outside of trust fund assistance. Applicants will be eligible for reimbursements under 14.4(11) "a" to "c" 12 months after the receipt of their original \$500 grant.

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14.4(12) Matching funds to veterans service organizations to provide for accredited veteran service officers.

a. The commission may provide matching funds to veterans service organizations for maintaining accredited veteran service officers located at the Des Moines Veterans Affairs Regional Office.

b. Funding for all service organizations combined is available up to 20 percent of the interest and earnings on the trust fund balance during the fiscal year or \$150,000, whichever is less.

c. Service organizations requesting funding from the trust fund must provide financial data on the level of organizational funding for the staffing and operation of an office in the Des Moines Veterans Affairs Regional Office. Of the available amount outlined in this subrule, assistance will be split evenly among the service organizations eligible for the trust fund assistance. If the service organization's expenditures are less than their share of the grant, the grant amount will be reduced to the amount of their previous fiscal year's expenditures.

d. Service organizations will be required to maintain the same level of expenditures in the year they receive funding as in the previous year. Funding will be recaptured by the treasurer of the state of Iowa if this funding is used to supplant funding from an individual veterans service organization. Trust fund assistance will not be included in future fiscal year maintenance of effort requirements. A report on the previous fiscal year's expenditures will be required to determine the maintenance of effort for the organization.

ITEM 4. Amend subrule 14.5(3) as follows:

14.5(3) Eligibility determination.

a. The county director of veterans affairs or members of the county commission shall make a recommendation to the Iowa commission of veterans affairs as to whether to approve or deny the application. The Iowa commission of veterans affairs or a subcommittee appointed by the chair shall approve or deny all applications. Applications that are denied by the subcommittee will be forwarded to the Iowa commission of veterans affairs and will be processed at its quarterly meetings as set forth in 801—paragraph 1.2(2)“a” or during a conference call for the sole purpose of voting on a trust fund expenditure. Applications must be approved by a majority vote of the commission membership. The director of the Iowa department of veterans affairs shall notify an applicant within 15 days of the commission's decision. An explanation of the reasons for rejection of an application will accompany denials.

b. Applications for honor guard reimbursements under subrule 14.4(11) shall be processed solely by the Iowa department of veterans affairs and do not need commission approval for expenditure of trust fund interest balance funds for this purpose.

ITEM 5. Amend subrule 14.7(1) as follows:

14.7(1) Final agency action. The approval or denial of an application by the commission or the department shall be the final decision of the agency.

[Filed Emergency 7/9/08, effective 7/9/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7018B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 35A.5 and 2008 Iowa Acts, House File 2283, the Department of Veterans Affairs hereby adopts Chapter 16, “Limited Residency Vietnam Conflict Veterans Bonus,” Iowa Administrative Code.

The rules in Chapter 16 are established to create a limited Vietnam veteran bonus for the time period of July 1, 1958, to May 31, 1975, for veterans of that time period who were inducted into the military in Iowa, were denied a previous Iowa Vietnam bonus due to residency, and have not received a similar bonus from another state.

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In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are contrary to the public interest because of the need to implement this change that was authorized in legislation and provides an added benefit to certain Vietnam veterans who have been denied a Vietnam bonus payment due to residency. Furthermore, time to apply for this bonus is limited, and a delay in implementation could be detrimental to the eligible veterans.

The Department finds that this amendment confers a benefit upon certain Vietnam veterans who were denied the original Vietnam bonus due to residency requirements by implementing a program created by the Iowa General Assembly. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these rules is waived.

Notice of Intended Action to solicit comments on these rules is published herein as **ARC 7019B**.

No fiscal impact is anticipated.

These rules are intended to implement 2008 Iowa Acts, House File 2283.

These rules became effective on July 9, 2008.

Adopt the following **new** 801—Chapter 16:

CHAPTER 16

LIMITED RESIDENCY VIETNAM CONFLICT VETERANS BONUS

801—16.1(82GA, HF2283) Bonus for persons serving in the Vietnam service area.

16.1(1) Service requirement. A person who served on active duty for not less than 120 days in the armed forces of the United States at any time between July 1, 1958, and May 31, 1975, both dates inclusive, and who was inducted into active duty service from the state of Iowa and was honorably discharged or separated from active duty service, or is still in active service in an honorable status, or has been retired, or has been furloughed to a reserve, or has been placed on inactive status is entitled to receive from moneys appropriated for that purpose the sum of \$17.50 for each month that the person was on active duty service in the Vietnam service area, within the dates specified in this subrule, if the veteran earned either a Vietnam service medal or an armed forces expeditionary medal-Vietnam or can otherwise establish service in the Vietnam service area during that period.

16.1(2) Limited eligibility requirements. A person eligible to receive compensation pursuant to 16.1(1) shall be entitled to compensation pursuant to this rule only if all of the following requirements are met:

a. The person has not received a bonus or compensation similar to that provided in this chapter from this state or another state.

b. The person was on active duty service after July 1, 1958, and the person did not refuse on conscientious, political, religious, or other grounds, to be subject to military discipline.

c. The person made application for a bonus or compensation similar to that provided in this chapter from this state and was denied compensation because the person did not meet the applicable residency requirements.

d. The person files an application for compensation under this chapter in a manner determined by the department of veterans affairs by July 1, 2010.

16.1(3) Compensation. Compensation for persons who served in the Vietnam service area shall be as follows:

a. The amount of compensation shall be the sum of \$17.50 for each month that the person was on active duty service in the Vietnam service area, within the dates specified in subrule 16.1(1).

b. In addition, the person shall receive compensation at the sum of \$12.50 for each month that the person was on active duty service within the dates specified in subrule 16.1(1) and was not in the Vietnam service area. For example, a person who served six months in the Vietnam service area and six months not in the Vietnam service area will receive compensation for six months at \$17.50 per month, which is \$105, and six months at \$12.50 per month, which is \$75, for a total compensation payment of \$180.

c. Compensation under this subrule shall not exceed a total sum of \$500. Compensation for a fraction of a month shall not be considered unless the fraction is 16 days or more, in which case the fraction shall be computed as a full month.

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801—16.2(82GA, HF2283) Bonus for persons serving outside the Vietnam service area.

16.2(1) Service requirement. A person serving outside the Vietnam service area is a person otherwise qualified under subrule 16.1(1) except that the person did not earn either a Vietnam service medal or an armed forces expeditionary medal-Vietnam and did not serve in the Vietnam service area during the period between July 1, 1958, and May 31, 1975, both dates inclusive.

16.2(2) Limited eligibility requirements. A person eligible to receive compensation pursuant to 16.2(1) shall be entitled to compensation pursuant to this rule only if all of the following requirements are met:

a. The person has not received a bonus or compensation similar to that provided in this chapter from this state or another state.

b. The person was on active duty service after July 1, 1958, and the person did not refuse on conscientious, political, religious, or other grounds, to be subject to military discipline.

c. The person made application for a bonus or compensation similar to that provided in this chapter from this state and was denied compensation because the person did not meet the applicable residency requirements.

d. The person files an application for compensation under this chapter in a manner determined by the department of veterans affairs by July 1, 2010.

16.2(3) Compensation. Compensation shall be the sum of \$12.50 for each month that the person was on active duty service within the dates specified in subrule 16.2(1). Compensation under this subrule shall not exceed a total sum of \$300. Compensation for a fraction of a month shall not be considered unless the fraction is 16 days or more, in which case the fraction shall be computed as a full month.

801—16.3(82GA, HF2283) Definition of active duty. “Active duty” means full-time duty in the armed forces of the United States, excluding active duty for training purposes only and excluding any period a person was assigned by the armed forces to a civilian institution for a course of education or training which was substantially the same as established courses offered to civilians, or as a cadet or midshipman, however enrolled, at one of the service academies.

801—16.4(82GA, HF2283) Survivor compensation. The surviving unremarried widow or widower, child or children, mother, father, or person standing in loco parentis, in the order named and none other, of any deceased person shall be paid the compensation that the deceased person would be entitled to pursuant to this chapter, if living. However, if any person dies or is disabled from service-connected causes incurred during the period and in the area from which the person is entitled to receive compensation pursuant to this chapter, the person or the first survivor as designated by this rule, and in the order named, shall be paid \$500 or \$300, whichever maximum amount would have applied pursuant to rule 801—16.1(82GA, HF2283) or 801—16.2(82GA, HF2283), regardless of the length of service.

801—16.5(82GA, HF2283) Penalties. A person who knowingly makes a false statement relating to a material fact in supporting an application under this chapter is guilty of a serious misdemeanor. A person convicted under 2008 Iowa Acts, Senate File 2283, section 4, shall forfeit all benefits to which the person may have been entitled under this chapter.

801—16.6(82GA, HF2283) Tax exemption. All payments and allowances made under this chapter shall be exempt from taxation, levy, and sale on execution.

801—16.7(82GA, HF2283) Application procedures and determination of eligibility.

16.7(1) Application procedures. Application shall be made on forms provided by the Iowa department of veterans affairs. Applications may be obtained from the department at the address listed in subrule 16.7(4) or from the department’s Web site at www.iowava.org. The applicant shall provide the information requested on the application and include any additional documentation required (for example, a copy of the applicant’s DD Form 214). The completed application, including documentation, shall be returned to the department at the address listed in subrule 16.7(4).

16.7(2) Department processing and investigation. The executive director of the Iowa department of veterans affairs will approve or disapprove the application.

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16.7(3) Appeals procedure. Decisions of the executive director are subject to review by the commission pursuant to 801—Chapter 8. Applicants may appeal the decisions of the commission as provided by Iowa Code section 17A.19.

16.7(4) Office address. Persons may contact the Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824; telephone (515)242-5331 or 1-800-838-4692; fax (515)242-5659. The department's Web address is www.iowava.org.

801—16.8(82GA, HF 2388) Bonus restrictions and limitations. All bonuses under the program are subject to funding availability. Bonuses will be awarded in the order in which completed applications are received.

These rules are intended to implement 2008 Iowa Acts, House File 2283.

[Filed Emergency 7/9/08, effective 7/9/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7012B

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 239B.4(6), the Department of Human Services amends Chapter 41, "Granting Assistance," Iowa Administrative Code.

These amendments clarify that the 60-month limit on Family Investment Program (FIP) assistance applies when an adult has received assistance from FIP or from any state program in Iowa or in another state that is funded by the Temporary Assistance for Needy Families (TANF) block grant.

An "adult" is defined as the parent of the FIP child in the home, the parent's spouse, or a needy specified relative who is included as an optional member of the eligible group. In a family that includes a parent and a stepparent, both may have previously received assistance separately or together. If the adult who has received 60 months of TANF is the parent or the parent's spouse, the entire family is ineligible for FIP unless the family meets the requirements for a hardship exemption. If the adult is a needy specified relative, the adult is ineligible, but assistance can continue for other members of the household.

The amendments also make technical changes to references to Department actions to allow for the possible centralization of some eligibility functions.

These amendments do not provide for waivers in specified situations, since the 60-month limit of TANF assistance is a federal requirement, and the Department has no authority to waive federal requirements.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 21, 2008, as **ARC 6797B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on July 9, 2008.

These amendments shall become effective on October 1, 2008.

These amendments are intended to implement Iowa Code section 239B.5.

The following amendments are adopted.

ITEM 1. Amend subrule 41.30(1) as follows:

41.30(1) *Sixty-month limit.* Assistance shall not be provided to a FIP applicant or recipient family that includes an adult who has received assistance for 60 calendar months under FIP or any state program in Iowa or in another state that is funded by the Temporary Assistance for Needy Families (TANF) block grant. The 60-month period need not be consecutive.

a. An "adult" is any person who is a parent of the FIP child in the home, the parent's spouse, or included as an optional member under subparagraphs 41.28(1) "b"(1), (2) and (3). In two-parent households or households that include a parent and a stepparent, the 60-month limit is determined when either a parent or stepparent has received assistance for 60 months.

b. "Assistance" shall include any month for which the adult receives a FIP grant. Assistance received for a partial month shall count as a full month.

ITEM 2. Strike the words "county office" and "county office's" wherever they appear in subrule **41.30(3)** and replace them with the word "department" or "department's."

[Filed 7/9/08, effective 10/1/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7011B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” and Chapter 76, “Application and Investigation,” Iowa Administrative Code.

These amendments:

- Exempt income from temporary employment by the U.S. Bureau of the Census from consideration in determining Medicaid eligibility and benefits. The Centers for Medicare and Medicaid Services is encouraging states to adopt this policy. Many low-income people obtain temporary employment during the census and might be discouraged from doing so if the income would affect their benefits.

- Make technical corrections to remove references to obsolete policies related to suspensions of eligibility and retrospective budgeting.

- Make technical corrections to clarify policies that have been troublesome on appeal or have raised questions about implementation.

- Make technical changes to update terminology referring to persons who are eligible for Medicaid and locations where various functions may take place in the Department.

Clarifications include the following:

- An Indian Health Service office may become qualified to determine presumptive eligibility for pregnant women.

- When the Department does not receive requested forms or information, assistance will be denied or canceled.

- Forms may be submitted electronically.

- A dependent child who is absent for educational purposes may continue to be counted in the household for the Child Medical Assistance Program.

- No allowance is made for child care expenses if one parent is able to take care of the children.

- Stepparents are allowed work expenses for care of an incapacitated adult.

- Proration of a nonrecurring lump sum begins with the month when the lump sum is received.

- Applicants determined eligible under the coverage group for treatment of breast or cervical cancer are not issued a Medical Assistance Eligibility Card. They are issued a Presumptive Medicaid Eligibility Notice of Decision as proof of eligibility.

These amendments do not provide for waivers in specified situations because the exemption of census income is a benefit and the other changes are technical changes that clarify existing policy. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6775B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on July 9, 2008.

These amendments are intended to implement Iowa Code sections 249A.3 and 249A.4.

These amendments shall become effective on October 1, 2008.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 75, 76] is being omitted. These amendments are identical to those published under Notice as **ARC 6775B**, IAB 5/7/08.

[Filed 7/9/08, effective 10/1/08]

[Published 7/30/08]

[For replacement pages for IAC, see IAC Supplement 7/30/08.]

ARC 7016B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments change the provisions for additional Medicaid reimbursement for nursing facilities related to the facility's performance as measured by ten indicators of quality care, as directed by 2008 Iowa Acts, Senate File 2425, section 33. This legislation requires the following changes:

- The amount used to calculate the accountability measure add-on is reduced to 80 percent of the sum of the direct care patient-day-weighted median and the non-direct care patient-day-weighted median (down from 100 percent).
- The additional payment for accountability measures will be withheld from the facility's weekly payment remittance and will instead be made through an add-on to each claim at the end of the state fiscal year (June 30).
- A facility's accountability measure add-on will be reduced by 25 percent for each deficiency cited resulting in actual harm to a resident at a scope and severity level of G pursuant to the federal certification guidelines. If the facility fails to cure any level G deficiency cited within the time required by the Department of Inspections and Appeals, the accountability measure add-on will be reduced to \$0.
- A facility will forfeit its accountability measure add-on if the facility receives a deficiency due to instances of actual harm or immediate jeopardy at a scope and severity level of H or higher pursuant to the federal certification guidelines.

In the Centers for Medicare and Medicaid Services' nursing home survey and certification system, a level G deficiency is an isolated instance of actual harm to a resident that does not constitute "immediate jeopardy" to the resident's health or safety. A level H deficiency is a pattern of incidents of actual harm of the same severity. Higher levels include I, widespread instances of actual harm but no immediate jeopardy; J, an isolated instance of immediate jeopardy to a resident's health or safety; K, a pattern of such instances; and L, widespread instances of immediate jeopardy. Survey findings at level F (widespread instances of deficiencies that caused no actual harm but had a potential to cause more than minimal harm) and levels H through L indicate a substandard quality of care if the requirement that is not met falls under federal regulations on resident behavior, quality of life, or quality of care.

In addition, these amendments make a technical change to subrule 81.36(5) to update the name of the Iowa Board of Nursing Home Administrators.

These amendments do not provide for waivers in specified situations, since these are statutory provisions.

The Council on Human Services adopted these amendments July 9, 2008.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments merely conform the rules to the provisions in 2008 Iowa Acts, Senate File 2425, section 33, and the Department has no discretion in the payment amounts or timing.

These amendments are also published herein under Notice of Intended Action as **ARC 7017B** to allow for public comment.

These amendments are intended to implement Iowa Code section 249A.4 and 2001 Iowa Acts, chapter 192, section 4, as amended by 2008 Iowa Acts, Senate File 2425, section 33.

These amendments will become effective September 3, 2008.

The following amendments are adopted.

ITEM 1. Amend paragraph **81.6(16)“g”** as follows:

g. Accountability measures. Additional reimbursement for non-state-owned facilities, based on accountability measures, is available beginning July 1, ~~2002~~ 2008, as provided in this paragraph. Accountability measures are nursing facility characteristics that indicate the quality of care, efficiency, or commitment to care for certain resident populations. These characteristics are objective, measurable, and, when considered in combination with each other, deemed to have a correlation to a resident's quality of life and care. While any single measure does not ensure the delivery of quality care, a nursing facility's

HUMAN SERVICES DEPARTMENT[441](cont'd)

achievement of multiple measures suggests that quality is an essential element in the facility's delivery of resident care.

Additional reimbursement for accountability measures is not available to Medicare-certified hospital-based nursing facilities, state-operated nursing facilities, or special population nursing facilities. Therefore, data from these facility types shall not be used when determining eligibility for or amount of additional reimbursement based on accountability measures.

~~In order for a nursing facility to~~ To qualify for additional Medicaid reimbursement for accountability measures, ~~a facility~~ must achieve a minimum score of 3 points. The maximum available points are 11. ~~Additional Medicaid reimbursement will be available in the following amounts.~~

0 - 2 points	No additional reimbursement
3 - 4 points	1 percent of the direct care and non-direct care cost component patient day weighted medians
5 - 6 points	2 percent of the direct care and non-direct care cost component patient day weighted medians
7 or more points	3 percent of the direct care and non-direct care cost component patient day weighted medians

The Iowa Medicaid enterprise shall award points based on the ~~following ten~~ measures: described in subparagraphs (1) through (10).

(1) to (10) No change.

(11) Calculation of potential reimbursement. The number of points awarded shall be determined annually on the first day of the state fiscal year and shall be used to calculate the amount of the additional reimbursement for accountability measures as follows:

<u>0 - 2 points</u>	<u>No additional reimbursement</u>
<u>3 - 4 points</u>	<u>1 percent of the direct care plus non-direct care cost component patient-day-weighted medians multiplied by 80 percent, subject to reduction as provided in subparagraph (12)</u>
<u>5 - 6 points</u>	<u>2 percent of the direct care plus non-direct care cost component patient-day-weighted medians multiplied by 80 percent, subject to reduction as provided in subparagraph (12)</u>
<u>7 or more points</u>	<u>3 percent of the direct care plus non-direct care cost component patient-day-weighted medians multiplied by 80 percent, subject to reduction as provided in subparagraph (12)</u>

(12) Reduction of additional reimbursement. The additional reimbursement for accountability measures calculated according to subparagraph (11) shall be subject to reduction as follows:

1. A facility's additional reimbursement shall be reduced by 25 percent for each citation received during the year for a deficiency resulting in actual harm at a scope and severity level of G pursuant to the federal certification guidelines.

2. If the facility fails to cure a cited level G deficiency within the time allowed by the department of inspections and appeals, the additional reimbursement shall be forfeited and the facility shall not receive any accountability measure payment for the year.

3. If a facility receives a citation for a deficiency resulting in actual harm or immediate jeopardy at a scope and severity level of H or higher pursuant to the federal certification guidelines, regardless of the amount of any fines assessed, the additional reimbursement shall be forfeited and the facility shall not receive any accountability measure payment for the year.

(13) Report of deficiencies. The department shall request that the department of inspections and appeals furnish by September 1, December 1, March 1 and August 1 of each year a list of nursing facilities subject to a reduction of the additional reimbursement for accountability measures pursuant to the criteria in subparagraph (12).

HUMAN SERVICES DEPARTMENT[441](cont'd)

(14) Application of additional payments. The additional reimbursement for accountability measures shall be paid to qualifying facilities at the end of the state fiscal year. At the end of each state fiscal year, the Iowa Medicaid enterprise shall:

1. Retroactively adjust each qualifying facility's quarterly rates to the first day of the state fiscal year to include the amount of additional reimbursement for accountability measures calculated according to 81.6(16) "g"; and

2. Reprice all facility claims with dates of service during the period in which an additional reimbursement for accountability measures is effective to reflect the adjusted reimbursement rate.

ITEM 2. Amend subrule 81.36(5) as follows:

81.36(5) *Notification of physicians and state board of examiners.* If the immediate jeopardy is also substandard quality of care, the department of inspections and appeals shall notify attending physicians and the Iowa board of ~~examiners~~ for nursing home administrators of the finding of substandard quality of care.

[Filed Without Notice 7/9/08, effective 9/3/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7010B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 57, "Residential Care Facilities," Chapter 58, "Nursing Facilities," and Chapter 63, "Residential Care Facilities for the Mentally Retarded," Iowa Administrative Code.

The adopted amendments provide that a resident may be seen and treated by a health care practitioner, other than the resident's personal physician, if the practitioner is working in collaboration with the resident's physician. The current rules require that a resident shall be seen by or visit a physician.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 30, 2008, as **ARC 6560B**. During the public comment period, several individuals noted concerns that the Department's noticed rules prohibited a health care practitioner, other than the resident's personal physician, from seeing or treating the resident if the practitioner was employed by the facility. It was noted that the restriction further reduced the availability of health care for residents in long-term care facilities. As a result, the Department eliminated the employment restriction in the adopted amendment to subrule 57.15(6) in 481—Chapter 57, which deals with residential care facilities, and in the amendment to subrule 63.15(6) in 481—Chapter 63, which deals with care facilities for the mentally retarded.

Because it was necessary to revise subrule 58.14(8) in accordance with federal regulations, the Department has rescinded the subrule and adopted a new subrule in lieu thereof. In the new subrule, the Department has adopted the same requirements for physician delegation of duties that are contained in the federal regulations governing nursing facilities participating in the Medicaid and Medicare programs. Adoption of the federal regulations, as outlined in Table 1 of the new subrule, clarifies the process for nursing facilities and, additionally, does not create a state licensure standard inconsistent with the federal regulations.

The adopted amendments originally were presented to the State Board of Health for initial review at the Board's January 9, 2008, meeting. The Board approved the amendments at its July 9, 2008, meeting.

These amendments will become effective September 3, 2008.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135C.14.

The following amendments are adopted.

ITEM 1. Amend subrule 57.15(6) as follows:

57.15(6) Each resident shall be visited by or shall visit the resident's physician at least once each year. The year period shall be measured from the date of admission and is not to include preadmission physicals. Any

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

required physician task or visit in a residential care facility may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with the physician. (III)

ITEM 2. Rescind subrule 58.14(8) and adopt the following **new** subrule in lieu thereof:

58.14(8) Each resident shall be visited by or shall visit the resident's physician at least twice a year. The year period shall be measured from the date of admission and is not to include preadmission physicals. Notwithstanding the provisions of 42 CFR 483.40, any required physician task or visit in a nursing facility may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with a physician, as outlined in Table 1. (III)

In dually certified skilled nursing/nursing facilities, the advanced registered nurse practitioner, clinical nurse specialist, and physician assistant must follow the skilled nursing facility requirements for services for skilled nursing facility stays. For nursing facility stays in skilled nursing/nursing facilities, any required physician task or visit may be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant working in collaboration with the physician.

Nurse practitioners, clinical nurse specialists, and physician assistants may perform other tasks that are not reserved to the physician such as visits outside the normal schedule needed to address new symptoms or other changes in medical status.

Table 1: Authority for non-physician practitioners to perform visits, sign orders, and sign certifications/recertifications when permitted by state law*

	Initial Comprehensive Visit/Orders	Other Required Visits ¹	Other Medically Necessary Visits and Orders ²	Certification/Recertification
Skilled Nursing Facilities				
Nurse practitioner and clinical nurse specialist employed by the facility	May not perform/May not sign	May perform	May perform and sign	May not sign
Nurse practitioner and clinical nurse specialist not a facility employee	May not perform/May not sign	May perform	May perform and sign	May sign subject to state requirements
Physician assistant regardless of employer	May not perform/May not sign	May perform	May perform and sign	May not sign
Nursing Facilities				
Nurse practitioner, clinical nurse specialist, and physician assistant employed by the facility	May not perform/May not sign	May not perform	May perform and sign	May sign subject to state requirements
Nurse practitioner, clinical nurse specialist, and physician assistant not a facility employee	May perform/May sign	May perform	May perform and sign	May sign subject to state requirements

*As permitted by state law governing the scope and practice of nurse practitioners, clinical nurse specialists, and physician assistants.

¹ Other required visits include the skilled nursing resident monthly visits that may be alternated between physician and advanced registered nurse practitioners, clinical nurse specialists, or physician assistants after the initial comprehensive visit is completed.

² Medically necessary visits may be performed prior to the initial comprehensive visit.

ITEM 3. Amend subrule 63.15(6) as follows:

63.15(6) Each resident shall be visited by or shall visit the resident's physician at least annually. The year period shall be measured from the date of admission and is not to include preadmission physicals. Any required physician task or visit in a residential care facility for the mentally retarded may also be performed

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with the physician. (III)

[Filed 7/9/08, effective 9/3/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7042B**IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3(1)“b” and Iowa Code Supplement section 16.5(l)“r,” the Iowa Finance Authority adopts amendments to Chapter 9, “Title Guaranty Division,” Iowa Administrative Code.

These amendments revise the mortgage release certificate rules in Chapter 9.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 4, 2008, as **ARC 6819B**. The Authority received no public comment on the amendments. These amendments are identical to those published under Notice.

The Iowa Finance Authority adopted these rules on July 9, 2008.

These amendments will become effective on September 3, 2008.

These amendments are intended to implement Iowa Code Supplement section 16.5(l)“r,” Supplement section 16.92 as amended by 2008 Iowa Acts, House File 2700, and Iowa Code sections 17A.12 and 17A.16.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [9.20] is being omitted. These amendments are identical to those published under Notice as **ARC 6819B**, IAB 6/4/08.

[Filed 7/10/08, effective 9/3/08]

[Published 7/30/08]

[For replacement pages for IAC, see IAC Supplement 7/30/08.]

ARC 7043B**IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3(1)“b” and Iowa Code Supplement section 16.5(l)“r,” the Iowa Finance Authority adopts amendments to Chapter 9, “Title Guaranty Division,” Iowa Administrative Code.

These amendments replace current closing protection letter subrules with new subrules necessary due to the recent change in law pursuant to 2008 Iowa Acts, Senate File 2117, which was signed by the Governor and became effective on April 11, 2008. The amendments also update the rules generally.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 4, 2008, as **ARC 6818B**. The Authority received no public comment on the amendments. These amendments are identical to those published under Notice.

The Iowa Finance Authority adopted these amendments on July 9, 2008.

These amendments will become effective on September 3, 2008.

IOWA FINANCE AUTHORITY[265](cont'd)

These amendments are intended to implement Iowa Code Supplement section 16.5(1)“r,” Iowa Code sections 17A.12 and 17A.16, and Iowa Code section 16.93 as amended by 2008 Iowa Acts, Senate File 2117.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [9.22] is being omitted. These amendments are identical to those published under Notice as **ARC 6818B**, IAB 6/4/08.

[Filed 7/10/08, effective 9/3/08]

[Published 7/30/08]

[For replacement pages for IAC, see IAC Supplement 7/30/08.]

ARC 7040B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3(1)“b” and Iowa Code Supplement section 16.5(1)“r,” the Iowa Finance Authority amends Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

These amendments replace the current qualified allocation plan for the low-income housing tax credit program with the 2009 qualified allocation plan, which is incorporated by reference in rule 265—12.1(16).

The qualified allocation plan sets forth the purpose of the plan, the administrative information required for participation in the program, the threshold criteria, the selection criteria, the post-reservation requirements, the appeal process, and the compliance monitoring component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the qualified allocation plan are available upon request from the Authority and are available electronically on the Authority’s Web site at www.iowafinanceauthority.gov. The 2009 qualified allocation plan is incorporated by reference, which is consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 4, 2008, as **ARC 6815B**. The Authority received public comment on the qualified allocation plan and made certain changes based thereon. The amendments to 265—Chapter 12, however, are identical to those published under Notice.

The Iowa Finance Authority adopted these amendments on July 9, 2008.

These amendments will become effective on September 3, 2008.

These amendments are intended to implement Iowa Code Supplement section 16.5(1)“r,” Iowa Code sections 16.52, 17A.12, and 17A.16, and IRC Section 42.

The following amendments are adopted.

ITEM 1. Amend rule 265—12.1(16) as follows:

265—12.1(16) Qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2008~~ 2009 Qualified Allocation Plan ~~effective October 3, 2007,~~ shall be the qualified allocation plan for the allocation of ~~2008~~ 2009 low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, and the application instructions. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The qualified allocation plan does not include any amendments or editions created subsequent to September 3, 2008.

ITEM 2. Amend rule 265—12.2(16) as follows:

265—12.2(16) Location of copies of the plan. The qualified allocation plan can be reviewed and copied in its entirety on the authority’s Web site at <http://www.iowafinanceauthority.gov>. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority’s Web site. The plan incorporates by reference IRC Section 42 and the regulations in effect as of ~~October~~ September 3, 2007 2008.

IOWA FINANCE AUTHORITY[265](cont'd)

Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's Web site. ~~Copies are available upon request at no charge from the authority.~~

[Filed 7/10/08, effective 9/3/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7041B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3(1)“b” and Iowa Code Supplement sections 16.5(1)“r” and 16.181, the Iowa Finance Authority hereby amends Chapter 19, “State Housing Trust Fund,” Iowa Administrative Code.

The purpose of these amendments is to adopt and incorporate by reference the Iowa Finance Authority State Housing Trust Fund Allocation Plan for the Local Housing Trust Fund Program dated May 2008 in place of the Iowa Finance Authority State Housing Trust Fund 2008 Allocation Plan for the Local Housing Trust Fund Program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 4, 2008, as **ARC 6816B**. The Authority received public comments related to the statutory requirements of the proposed plan. The Authority did not make any changes to the Noticed rules or the Allocation Plan based upon those public comments received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code Supplement sections 16.5(1)“r” and 16.181.

The Iowa Finance Authority adopted these amendments on July 9, 2008.

These amendments will become effective on September 3, 2008.

The following amendments are adopted.

ITEM 1. Amend rule 265—19.1(16) as follows:

265—19.1(16) Trust fund allocation plans. The trust fund allocation plan entitled Iowa Finance Authority State Housing Trust Fund ~~2008 Allocation Plan for the local housing trust fund program~~ Local Housing Trust Fund Program dated May 2008 shall be the allocation plan for the ~~distribution award~~, pursuant to the local housing trust fund program, of funds held within the state housing trust fund established in Iowa Code section 16.181. The trust fund allocation plan entitled Iowa Finance Authority State Housing Trust Fund 2008 Allocation Plan for the Project-Based Housing Program shall be the allocation plan for the distribution, pursuant to the project-based housing program, of funds held within the state housing trust fund. The trust fund allocation plans for the local housing trust fund program and the project-based housing program include the plans, applications, and application instructions. The trust fund allocation plans for the local housing trust fund program and the project-based housing program are incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

ITEM 2. Amend **265—Chapter 19**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement sections ~~16.5(17)~~ 16.5(1)“r” and 16.181.

[Filed 7/10/08, effective 9/3/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7034B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

Chapter 40 specifies the areas where limitations are needed to permit appropriate utilization of specific water areas.

This amendment adds two areas to the no-wake areas designated for Lake Odessa. These narrow channels will be dredged in 2008 to allow hydraulic connection of water areas for fish movement during low-water periods in summer and winter. The life of these channels can be significantly extended by reducing boat wakes and resultant shoreline erosion. Both channels are well protected from wind fetch and wave erosion, so boat activity will be the primary source of shoreline erosion in these two locations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6785B**. A public hearing was held on May 29, 2008, and 28 people attended. Ten spoke in support of the change and two opposed it. One written comment was received in favor of the proposed change. No changes were made to the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 462A.17, 462A.26, and 462A.31.

This amendment will become effective September 3, 2008.

The following amendment is adopted.

Adopt the following **new** subrule 40.9(3):

40.9(3) All motorboats, except authorized emergency vessels, shall be operated at no-wake speed year around, on those portions of Lake Odessa known as the lateral ditch, between the main lake and Bebee Pond, and on the channel between Yankee Chute and Beaver Pond.

[Filed 7/10/08, effective 9/3/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7033B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

These amendments establish a no-wake zone on Catfish Creek by placement of regulatory buoys beginning at the mouth of Catfish Creek and extending upstream to the confluence of Catfish Creek and Granger Creek. Catfish Creek, which runs through Mines of Spain State Recreation Area, continues to increase in popularity for "quiet water activities" such as canoeing, kayaking, water-based ecotours and wildlife watching. Watercraft entering the area at a great speed creates wake problems for boaters and visitors who are pursuing these activities.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6784B**. Two public hearings, one in Des Moines and one in Dubuque, were held on May 27, 2008. No written or oral comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code section 462A.26.

These amendments will become effective September 3, 2008.

The following amendments are adopted.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 1. Reserve rule **571—40.56**.

ITEM 2. Adopt the following **new** rule 571—40.57(462A):

571—40.57(462A) Zoning of Catfish Creek, Mines of Spain State Recreation Area, Dubuque County. All vessels shall be operated at no-wake speed within the area beginning at the mouth of Catfish Creek and extending upstream to the confluence of Catfish Creek and Granger Creek and designated by uniform marker buoys approved by the natural resource commission.

[Filed 7/10/08, effective 9/3/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7032B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby amends Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

This amendment was requested by the Wright County Conservation Board to establish two no-wake zones on the north shore of Lake Cornelia by placement of regulatory buoys in such a way as to define the no-wake zones. One zone will designate the public swimming area, and the second zone will designate the boat harbor and harbor entrance. This amendment is being adopted in an effort to regulate/reduce boat speed and increase swimmer and boating safety.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 4, 2008, as **ARC 6827B**. Public hearings were held at Lake Cornelia County Conservation Board office on September 12, 2007, and the Wallace State Office Building on June 25, 2008. No written or oral comments were received during the comment period. Minor changes which clarify the amendment's intent have been made from the Notice of Intended Action.

This amendment is intended to implement Iowa Code section 456A.25.

This amendment will become effective September 17, 2008.

The following amendment is adopted.

Adopt the following **new** rule 571—40.58(462A):

571—40.58(462A) Zoning of Lake Cornelia, Wright County. All vessels shall be operated at a no-wake speed in the boat harbor and at the boat harbor entrance within the zoned area extending 300 feet from two points on shore and 100 feet in width, equidistant from either side of the harbor entrance. The Wright County Conservation Board shall designate the boat harbor entrance and the public swimming area with uniform marker buoys approved by the natural resource commission.

[Filed 7/10/08, effective 9/17/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7023B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby adopts new Chapter 50, "Oral Health," Iowa Administrative Code.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

In 2007, the position of State Public Health Dental Director and the Oral Health Bureau were both established in Iowa Code Supplement sections 135.14 and 135.15, respectively. These proposed rules describe the purpose and responsibilities of the State Dental Director and the Oral Health Bureau.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 21, 2008, as **ARC 6795B**. A public hearing was held through the Iowa Communications Network (ICN) at five locations, with notice of the public hearing and public comment period sent to various individuals and organizations. Comments were sent from one organization, the Iowa Dental Association. The comment topic was the definition of “dental home.”

The rules have been modified from those published under Notice. The modification was made upon consideration of the comment received.

The change made to the Notice is as follows: The definition of “dental home” now includes “diagnostic services, treatment services, and emergency services” to more closely reflect the dental home definition adopted by the Iowa Legislature in 2008. The listed providers in the definition were not changed because the dental screening statute allows for both dental and nondental health care professionals. Reference to the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program was not included in the definition of “dental home” because EPSDT is a Medicaid program and the Oral Health Bureau, as a public health entity, promotes oral health for all Iowans regardless of payment source. The definition now reads as follows:

“ ‘Dental home’ means a network of dental and nondental public and private health care professionals providing individualized care based on risk assessment. Services include oral health education, dental screenings, preventive services, diagnostic services, treatment services, and emergency services.”

These rules were adopted by the State Board of Health on July 9, 2008.

These rules will become effective on September 3, 2008.

These rules are intended to implement Iowa Code Supplement sections 135.14 and 135.15.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 50] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 6795B**, IAB 5/21/08.

[Filed 7/10/08, effective 9/3/08]

[Published 7/30/08]

[For replacement pages for IAC, see IAC Supplement 7/30/08.]

ARC 7024B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of 2007 Iowa Acts, chapter 146, section 1, subsection 5, the Department of Public Health hereby adopts new Chapter 51, “Dental Screening,” Iowa Administrative Code.

These rules describe the dental screening requirement for children enrolling in elementary school or high school. The rules specify the procedures that constitute a dental screening, prescribe reporting requirements, and provide for waivers.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 21, 2008, as **ARC 6798B**. A public hearing was held through the Iowa Communications Network (ICN) at five locations, with notice of the public comment period and public hearing sent to various individuals and organizations. Comments were sent from approximately 30 persons and organizations, including school nurses, health departments, local public health agencies, community health centers, the Department of Education, and the Iowa Association of School Boards. Comment topics included definitions, persons included, persons excluded, time line for valid dental screening, proof of dental screening, dental screening documentation, assurance of dental screening services, records, and reporting.

The rules have been modified from those published under Notice. The modifications were made after all comments from the public were considered. Comments not addressed through rule modifications will

PUBLIC HEALTH DEPARTMENT[641](cont'd)

be addressed through communication on the Department's Web site and through public education. The Department's Web site is www.idph.state.ia.us/hpcdp/oral_health_school_screening.asp.

The changes made to the Notice are as follows:

1. In rule 641—51.2(82GA,ch146,SF2111), several changes were made. The definitions for “fluoride varnish,” “occlusal,” “posterior,” and “sealant” were deleted because they were no longer applicable terms for the rules or the screening certificates. “Sealant placement” and “fluoride varnish application” were removed as part of the definition of “requires dental care.” “White spot lesion” was removed as part of the definition of “tooth decay” and added to the definition of “requires dental care.” “In one or more teeth” was added to the definitions of “requires dental care” and “requires urgent dental care.”

2. In rule 641—51.3(82GA,ch146,SF2111), the words “newly” and “for the first time” were added for clarification.

3. In rule 641—51.4(82GA,ch146,SF2111), the words “the department certificate or a form” were added to clarify what constitutes a valid exemption certificate. Additionally, the requirement for a provider license number was deleted from the certificate of dental screening exemption for financial hardship.

4. In rule 641—51.8(82GA,ch146,SF2111), the words “the department certificate or a form” were added to clarify what constitutes a valid certificate of dental screening. Additionally, subrule 51.8(3) was deleted to clarify that only the professional providing the screening will be allowed to complete the certificate of dental screening form.

5. In rule 641—51.9(82GA,ch146,SF2111), “age” was deleted from the list of required student information. The words “home or mobile” were added to the requirement for telephone numbers. In addition, “provider license number” was deleted.

6. In rule 641—51.11(82GA,ch146,SF2111), subrule 51.11(4) was deleted because the necessary information is found in 51.11(3). Subrule 51.11(5) has been renumbered 51.11(4).

These rules were adopted by the State Board of Health on July 9, 2008.

These rules will become effective on September 3, 2008.

These rules are intended to implement 2007 Iowa Acts, chapter 146, and 2008 Iowa Acts, Senate File 2111.

The following amendment is adopted.

Adopt the following **new** 641—Chapter 51:

CHAPTER 51 DENTAL SCREENING

641—51.1(82GA,ch146,SF2111) Purpose. The purpose of the dental screening requirement is to improve the oral health of Iowa's children. Dental screenings will facilitate early detection and referral for treatment of dental disease; reduce the incidence, impact, and cost of dental disease; inform parents and guardians of their children's dental problems; encourage the establishment of effective oral health practices early in life; promote the importance of oral health as an integral component of preparation for school and learning; and contribute to statewide surveillance of oral health. These rules will enhance the I-Smile dental home concepts of prevention, education, care coordination, and treatment to provide a critical step in closing the gap in access to dental care for underserved children.

641—51.2(82GA,ch146,SF2111) Definitions. For purposes of this chapter, the following definitions apply:

“*Admitting official*” means the superintendent of schools or the superintendent's designated representative if a public school; if an accredited nonpublic school, the governing official of the school.

“*Applicant*” means any person seeking first-time enrollment in an Iowa elementary school or high school.

“*Dental hygienist*” means a person licensed to practice as a dental hygienist pursuant to Iowa Code chapter 153.

“*Dentist*” means a person licensed to practice as a dentist pursuant to Iowa Code chapter 153.

“*Department*” means the Iowa department of public health.

“*Electronic signature*” means a confidential personalized digital key, code, or number that is used for secure electronic data transmission and that identifies and authenticates the signatory.

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“Elementary school” means kindergarten, if provided, and grades one through six in an Iowa school district or accredited nonpublic school.

“High school” means grades 9 through 12 in an Iowa school district or accredited nonpublic school.

“Infection or injury” means soft tissue laceration, bleeding or swelling, or a broken or dislodged tooth.

“I-Smile” means the department program designed to increase access to dental care for children and to ensure a dental home.

“I-Smile coordinator” means a designated dental hygienist who is employed by or under contract with a local public health agency to administer the I-Smile dental home program.

“Local board of health” means a county, city, or district board of health as defined in Iowa Code section 137.2.

“No obvious problems” means a child’s hard and soft tissues appear to be visually healthy and there is no apparent reason for the child to be seen before the next routine dental checkup.

“Nurse” means a person licensed to practice as a nurse pursuant to Iowa Code chapter 152.

“Physician” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to Iowa Code chapter 148, 150, or 150A.

“Physician assistant” means a person licensed to practice as a physician assistant pursuant to Iowa Code chapter 148C.

“Requires dental care” means that tooth decay or a white spot lesion is suspected in one or more teeth.

“Requires urgent dental care” means that obvious tooth decay is present in one or more teeth, the child is experiencing pain, or there is evidence of infection or injury.

“Signature” means an original signature, or authorized use of stamped signature, or electronic signature of a dentist, dental hygienist, physician, physician assistant, or nurse.

“Tooth decay” means a visible cavity or hole in a tooth with brown or black coloration, or a retained root.

“Transfer student” means an applicant from an elementary school or a high school outside Iowa who is seeking enrollment in an elementary school or a high school located in Iowa.

“White spot lesion” means a demineralized area of a tooth, usually appearing as a chalky, white spot or white line near the gum line. A white spot lesion is considered an early indicator of tooth decay, especially in primary teeth.

641—51.3(82GA,ch146,SF2111) Persons included. The dental screening requirements specified in this chapter apply to all persons newly enrolled or attempting to enroll for the first time in a public or accredited nonpublic elementary school or high school in Iowa.

641—51.4(82GA,ch146,SF2111) Persons excluded. Exclusions to these rules are permitted on an individual basis for religious and financial hardship reasons. Applicants approved for a religious or financial hardship exemption shall submit to the admitting official a valid Iowa department of public health certificate of dental screening exemption.

51.4(1) Religious exemption. A religious exemption may be granted to an applicant if the dental screening conflicts with a genuine and sincere religious belief.

a. The certificate of dental screening exemption for religious reasons shall attest that the dental screening conflicts with a genuine and sincere religious belief and that the belief is in fact religious and not based merely on philosophical, scientific, moral, personal, or medical opposition to dental screenings.

b. The certificate of dental screening exemption for religious reasons shall be signed and dated by the applicant or, if the applicant is a minor, by the parent or guardian.

c. The certificate of dental screening exemption for religious reasons is valid only when notarized.

d. To be valid, the certificate of dental screening exemption for religious reasons shall be the department certificate or a form approved in writing by the department.

51.4(2) Financial hardship exemption. A financial hardship exemption may be granted to an applicant who is unduly burdened by the cost of a dental screening.

a. The certificate of dental screening exemption for financial hardship reasons shall attest that dental screening would cause a genuine financial burden to the applicant.

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b. The certificate of dental screening exemption for financial hardship reasons shall be signed and dated by a dentist, dental hygienist, physician, physician assistant, or nurse.

c. The certificate of dental screening exemption for financial hardship reasons shall include the provider type and the provider's name, business address, and telephone number.

d. To be valid, the certificate of dental screening exemption for financial hardship reasons shall be the department certificate or a form approved in writing by the department.

51.4(3) A faxed copy, photocopy, or electronic copy of the valid certificate of dental screening exemption is acceptable.

641—51.5(82GA,ch146,SF2111) Dental screening components.

51.5(1) A dental screening is a visual assessment and is noninvasive and nondiagnostic.

51.5(2) Dental instrumentation is not required for a dental screening.

51.5(3) A dental screening can identify obvious or suspected oral health conditions that require or that might require examination by a dentist.

51.5(4) The dental screening shall include the following steps:

a. Visual inspection of the soft tissues, including the lips, cheeks, gums, tongue, floor of mouth, and roof of mouth, to assess infection or injury.

b. Visual inspection of all tooth surfaces to assess tooth decay, white spot lesions, or injury.

c. Documentation of the screening and treatment needs according to 51.9(82GA,ch146,SF2111).

641—51.6(82GA,ch146,SF2111) Dental screening providers.

51.6(1) *Elementary school.* A dental screening for elementary school enrollment shall be performed by a licensed dentist, a licensed dental hygienist, a licensed physician, a licensed physician assistant, or a licensed nurse.

51.6(2) *High school.* A dental screening for high school enrollment shall be provided by a licensed dentist or a licensed dental hygienist.

641—51.7(82GA,ch146,SF2111) Time line for valid dental screening.

51.7(1) *Elementary school.* To be valid, a minimum of one dental screening shall be performed on an applicant no earlier than three years of age but prior to reaching six years of age.

51.7(2) *High school.* To be valid, a minimum of one dental screening shall be performed on an applicant within one year prior to the enrollment date.

51.7(3) A dental screening may also be deemed valid by the department if the department determines that the applicant has substantially complied with the dental screening requirements.

641—51.8(82GA,ch146,SF2111) Proof of dental screening. The applicant or, if a minor, the parent or guardian of a child enrolled in elementary school or high school shall submit a valid Iowa department of public health certificate of dental screening to the admitting official of the school district or accredited nonpublic elementary school in which the applicant wishes to enroll.

51.8(1) To be valid, the certificate of dental screening shall be the department certificate or a form approved in writing by the department.

a. The Certificate of Dental Screening form is available on the department's Web site at http://www.idph.state.ia.us/hpcdp/oral_health.asp or is available by calling the department at (866)528-4020.

b. *Elementary school.* The certificate of dental screening shall be signed by a dentist, dental hygienist, physician, physician assistant, or nurse.

c. *High school.* The certificate of dental screening shall be signed by a dentist or dental hygienist.

d. The certificate of dental screening shall include all information required by 51.9(82GA, ch146,SF2111).

51.8(2) A faxed copy, photocopy, or electronic copy of the valid certificate of dental screening is acceptable.

641—51.9(82GA,ch146,SF2111) Dental screening documentation. A person performing a dental screening required by this chapter shall record the following student information on the certificate of dental screening

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provided or approved in writing by the department of public health in cooperation with the department of education:

1. Name (first and last);
2. Birth date;
3. Parent or guardian name;
4. Telephone numbers (home or mobile);
5. Address (street, city, and county);
6. School;
7. Grade level;
8. Gender;
9. Treatment needs (no obvious problems, requires dental care, requires urgent dental care);
10. Date of dental screening;
11. Provider type;
12. Provider name, business address, and telephone number; and
13. Provider signature.

641—51.10(82GA,ch146,SF2111) Assuring dental screening services. Each public and accredited nonpublic school, in collaboration with the department, shall assure that the parent or guardian of a student enrolled in the school has complied with the dental screening requirement. Parents or guardians of students who do not have a valid certificate of dental screening shall be provided with community dental screening referral resources, including contact information for the I-Smile coordinator, the department, or a dental society.

641—51.11(82GA,ch146,SF2111) Records. It shall be the duty of the admitting official of an elementary school or a high school to ensure that a valid certificate of dental screening or certificate of dental screening exemption is on file for each child enrolled.

51.11(1) The admitting official shall ensure that all certificates of dental screening are properly completed according to 51.8(82GA,ch146,SF2111).

51.11(2) The admitting official shall ensure that all certificates of dental screening exemption are properly completed according to 51.4(1) and 51.4(2).

51.11(3) The admitting official shall keep the certificates of dental screening or certificates of dental screening exemption on file at the school in which the applicant is enrolled and assist the applicant or the applicant's parent or guardian in the transfer of the certificate to another school upon the transfer of the applicant to another school.

51.11(4) The local board of health or its designee, the department of education, and the department or its designee shall have the right to have access to the certificates of dental screening and certificates of dental screening exemption of students enrolled in elementary schools and high schools.

641—51.12(82GA,ch146,SF2111) Reporting.

51.12(1) It shall be the duty of each local board of health or its designee to audit the certificates of dental screening and certificates of dental screening exemption in the schools within the local board's jurisdiction to determine compliance with 2007 Iowa Acts, chapter 146, and 2008 Iowa Acts, Senate File 2111.

51.12(2) By June 30 annually, each local board of health shall furnish the department with evidence for the preceding school year that each child enrolled in any public or accredited nonpublic school within the local board's jurisdiction met the dental screening requirement.

51.12(3) The evidence shall be in the form of a report that includes:

- a. Name of school, and
- b. Enrollments by grade, and
- c. The number of valid certificates of dental screening by grade, and
- d. The number of valid certificates for religious exemptions by grade, and
- e. The number of valid certificates for financial hardship exemptions by grade.

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641—51.13(82GA,ch146,SF2111) Iowa's dental screening database. The department may develop and maintain a statewide dental screening database to ensure that students receive the required dental screening and to monitor oral health.

51.13(1) The database may consist of information from the valid certificates of dental screening and certificates of dental screening exemption, including identifying and demographic data.

51.13(2) The database may be updated, at a minimum, annually.

51.13(3) Database reporting shall comply with 51.13(82GA,ch146,SF2111).

51.13(4) Restricted uses of database. The database information shall not be used to:

- a. Market services to students or nonstudents,
- b. Assist in bill collection services, or
- c. Locate or identify students or nonstudents for any purpose other than those expressly provided in this rule.

51.13(5) Confidentiality of database information. Dental screening information, including identifying and demographic data maintained in the database, is confidential and may not be disclosed except under the following limited circumstances:

a. The department may release information from the database to the following:

(1) The person who received the dental screening or the parent or guardian of the person who received the dental screening;

(2) Users of the database who complete an agreement with the department that specifies the conditions under which the database can be accessed and who have been issued an identification code or password by the department;

(3) Persons or entities requesting dental screening data in an aggregate form that does not identify an individual either directly or indirectly;

(4) Agencies that complete an agreement with the department which specifies conditions for access to database information and how that information will be used. Agencies shall not use information obtained from the database to market services to students or nonstudents, to assist in bill collection services, or to locate or identify students or nonstudents for any purposes other than those expressly provided in this rule; or

(5) A representative of a state or federal agency, or an entity bound by that state or federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state or federal agency is subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa. State or federal agencies shall not use information obtained from the database to market services to students or nonstudents, to assist in bill collection services, or to locate or identify students or nonstudents for any purposes other than those expressly provided in this rule.

b. Approved database users shall not release dental screening data except to the person who received the dental screening, the parent or guardian of the person who received the dental screening, health records staff of schools, medical, dental, or health care providers providing continuity of care, and other approved users of the database.

641—51.14(82GA,ch146,SF2111) Release of dental screening information.

51.14(1) *Between a dentist, dental hygienist, physician, physician assistant, or nurse, and the elementary school or high school that the child attends.* A dentist, dental hygienist, physician, physician assistant, or nurse shall disclose a student's dental screening information, including the student's name, date of birth, name of parent or guardian, demographic information, the month, day and year of the screening, and the screening results and treatment needs to an elementary school or a high school upon written or verbal request from the elementary school or high school. Written or verbal permission from a student or the student's parent or guardian is not required to release this information to an elementary school or a high school.

51.14(2) *Among dentists, dental hygienists, physicians, physician assistants, or nurses.* Dental screening information, including the student's name, date of birth, name of parent or guardian, demographic information, the month, day and year of the screening, and the screening results and treatment needs shall be provided by one dentist, dental hygienist, physician, physician assistant, or nurse to another health care provider without written or verbal permission from the student or the student's parent or guardian.

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641—51.15(82GA,ch146,SF2111) Referral requirements. Parents or guardians of students who require dental care or require urgent dental care shall be referred to the parent's or guardian's dentist of choice. Students without a dentist or who have difficulty accessing dental care shall be referred to a local I-Smile coordinator or local public health agency for assistance with completion of dental care. This assistance may include locating dentists, scheduling appointments, and identifying payment sources.

641—51.16(82GA,ch146,SF2111) Provider training. For the purpose of quality assurance and consistency, the department shall make training and training materials available for dental screening providers.

These rules are intended to implement 2007 Iowa Acts, chapter 146, and 2008 Iowa Acts, Senate File 2111.

[Filed 7/10/08, effective 9/3/08]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7025B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.102, the Department of Public Health hereby adopts new Chapter 67, "Blood Lead Testing," Iowa Administrative Code.

These rules describe the blood lead testing requirement for children enrolling or attempting to enroll in kindergarten. The rules specify the procedures that constitute a blood lead test, prescribe reporting requirements, and provide for waivers.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 21, 2008, as **ARC 6801B**. The Department received comments from public health agencies, school nurses, educational organizations, health care providers, nonprofit organizations, legislators, and the public. The comments were regarding definitions, the religious exemption, and the training and assistance to be provided to providers, schools, and public health agencies. The Department has made the following changes to the Notice of Intended Action:

1. The definition of "admitting official" has been deleted.
2. A definition of "laboratory" has been added to clarify that blood lead test results from laboratories certified to perform waived or non-waived blood lead analysis under the federal Clinical Laboratory Improvement Act of 1988 (CLIA) meet the blood lead testing requirement of this chapter.
3. In rule 641—67.4(135), introductory paragraph, "admitting official" has been changed to "board of directors of each school district and the authorities in charge of each nonpublic school."
4. In subrule 67.7(3), the language has been changed to state that the Department shall provide information regarding community blood lead testing programs, including contact information for the Department, directly to school districts and nonpublic schools in addition to collaborating with school districts and nonpublic schools to provide this information to parents and guardians.
5. In rule 641—67.11(135), the language has been changed to state that the Department will make training and training materials available to school officials, school health personnel, local childhood lead poisoning prevention programs, local child health centers, and local public health agencies in addition to health care providers who will be performing blood lead testing.

These rules were adopted by the State Board of Health on July 9, 2008.

These rules shall become effective September 3, 2008.

These rules are intended to implement Iowa Code Supplement section 135.105D and 2008 Iowa Acts, Senate File 2111.

The following amendment is adopted.

Adopt the following **new** 641—Chapter 67:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

CHAPTER 67
BLOOD LEAD TESTING

641—67.1(135) Purpose. The purpose of the blood lead testing requirement is to improve the health of Iowa's children. Blood lead testing will facilitate early detection and referral for treatment of lead poisoning; reduce the incidence, impact, and cost of lead poisoning; inform parents and guardians of their children's exposure to lead; promote the importance of reducing exposure to lead as an integral component of preparation for school and learning; and contribute to statewide surveillance of childhood lead poisoning.

641—67.2(135) Definitions. For purposes of this chapter, the following definitions apply:

"Applicant" means any person seeking first-time enrollment in kindergarten in a public or accredited nonpublic elementary school in Iowa.

"Blood lead database" means the database maintained by the department that includes the results of all blood lead testing reported to the department as required by 641—Chapter 1.

"Blood lead testing" means taking a capillary or venous sample of blood and sending it to a laboratory to determine the level of lead in the blood.

"Capillary" means a blood sample taken from the finger or heel for lead analysis.

"Department" means the Iowa department of public health.

"Elementary school" means an Iowa school district or accredited nonpublic school offering kindergarten.

"Health care provider" means a physician licensed under Iowa Code chapter 148, 150, or 150A, a physician assistant licensed under Iowa Code chapter 148C, or an advanced registered nurse practitioner licensed under Iowa Code chapter 152.

"Laboratory" means a laboratory certified to perform either waived or non-waived blood lead analysis according to the federal Clinical Laboratory Improvement Act of 1988 (CLIA).

"Transfer student" means an applicant from any elementary school outside Iowa who is seeking enrollment in kindergarten in an elementary school in Iowa.

"Venous" means a blood sample taken from a vein in the arm for lead analysis.

"Very low risk" means that a child has not (1) lived in, visited, or spent time in any building built before 1960, including but not limited to the child's home, a daycare center, a preschool, a baby-sitter's home or a relative's home; (2) eaten nonfood items; (3) lived with or frequently come in contact with an adult who works with lead on the job or as part of a hobby, including but not limited to painting, welding, foundry work, renovating old homes, working at a shooting range, manufacturing or recycling batteries, working with ceramics or stained glass, working with sheet metal or scrap metal, or plumbing; (4) lived near a battery manufacturing plant, battery recycling plant, lead smelter, or other source of lead emissions; (5) been born in or spent more than three months in Mexico, Central America, eastern Europe, or southeast Asia; (6) ingested food, candy, or remedies containing lead; (7) played with toys, jewelry, or other items that the U.S. Consumer Product Safety Commission has recalled due to lead contamination; or (8) been exposed to any other products or substances determined by the department, the U.S. Environmental Protection Agency, the U.S. Department of Housing and Urban Development, the Centers for Disease Control and Prevention, or the U.S. Food and Drug Administration to contain lead.

641—67.3(135) Persons included. The blood lead testing requirement specified in this chapter applies to all applicants and transfer students as defined in this chapter.

641—67.4(135) Persons excluded. Exclusions to these rules are permitted on an individual basis for religious reasons and for children determined by the department to be at very low risk for elevated blood lead levels. The parent or guardian of an applicant or transfer student approved for a religious exemption or an exemption for very low risk shall submit to the board of directors of each school district and the authorities in charge of each nonpublic school a valid Iowa department of public health certificate of blood lead testing exemption. To be valid, the certificate shall be the certificate of blood lead testing exemption provided or approved by the department.

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67.4(1) Religious exemption. A religious exemption may be granted to an applicant or transfer student if the blood lead testing conflicts with a genuine and sincere religious belief.

a. The certificate of blood lead testing exemption for religious reasons shall attest that the blood lead testing conflicts with a genuine and sincere religious belief and that the belief is in fact religious and not based merely on philosophical, scientific, moral, personal, or medical opposition to blood lead testing.

b. The certificate of blood lead testing exemption for religious reasons shall be signed and dated by the applicant's or transfer student's parent or guardian.

c. The certificate is valid only when notarized.

67.4(2) Exemption for very low risk. The department may grant to an applicant or transfer student an exemption for very low risk if the parent or guardian provides evidence satisfactory to the department that the applicant or transfer student meets the definition of very low risk.

a. The certificate of blood lead testing exemption for very low risk shall be signed and dated by the applicant's or transfer student's parent or guardian and by the chief of the bureau of lead poisoning prevention.

b. The certificate of blood lead testing exemption for very low risk is valid only when notarized.

67.4(3) A faxed copy, photocopy, or electronic copy of the valid certificate of blood lead testing exemption is acceptable.

641—67.5(135) Blood lead testing requirement.

67.5(1) Each applicant and transfer student shall meet the requirements of subrule 67.6(1).

67.5(2) The board of directors of each school district and the authorities in charge of each nonpublic school shall, in collaboration with the department, ensure that applicants and transfer students comply with the blood lead testing requirement according to subrule 67.6(1).

641—67.6(135) Time line for valid blood lead testing.

67.6(1) To be valid, a blood lead test shall be performed on an applicant or transfer student before the applicant or transfer student reaches six years of age, or in cases in which the applicant or transfer student has already reached six years of age, as soon as the department notifies the parent or guardian that a blood lead test has not yet been performed.

67.6(2) Desirable age for blood lead testing. A parent or guardian of a child under two years of age is strongly encouraged to have the child tested for elevated blood lead levels by the time that the child reaches two years of age.

641—67.7(135) Proof of blood lead testing.

67.7(1) The board of directors of each school district and the authorities in charge of each nonpublic school shall furnish the department, in the format specified by the department, within 60 days after the start of the school calendar, an electronic list of the children enrolled in kindergarten, including the names of children who have filed certificates of blood lead testing exemption.

67.7(2) The department shall match these electronic lists of children with the department's blood lead database and shall notify the school districts and nonpublic schools of the children who have and who have not met the blood lead testing requirement set forth in this chapter.

67.7(3) If the parent or guardian cannot provide evidence that the child received a blood lead test in accordance with subrule 67.5(1), the board of directors of the school district or the authorities in charge of the nonpublic school shall, in collaboration with the department, provide the parent or guardian with community blood lead testing program information, including contact information for the department. The department shall provide this information to and shall work with the school districts, nonpublic schools, and the local childhood lead poisoning prevention programs to ensure that children who have not met the blood lead testing requirement are tested as required by subrule 67.5(1).

641—67.8(135) Referral requirements. Parents or guardians of children who require a blood lead test shall be referred to a health care provider of choice. The parents or guardians of children without a health care provider or who have difficulty accessing blood lead testing shall be referred to a local childhood lead poisoning prevention program, local child health center, or local public health agency for assistance with completion

PUBLIC HEALTH DEPARTMENT[641](cont'd)

of blood lead testing. This assistance may include locating health care providers, scheduling appointments, identifying payment sources, and providing blood lead testing.

641—67.9(135) Blood lead testing documentation. A health care provider performing a blood lead test required by this chapter shall ensure that the results of the blood lead test are reported to the department as required by 641—Chapter 1.

641—67.10(135) Records. The board of directors of each school district and the authorities in charge of each nonpublic school shall, in collaboration with the department, ensure that each applicant and transfer student complies with the blood lead testing requirement according to subrule 67.6(1) or has a valid certificate of blood lead testing exemption on file.

67.10(1) The board of directors of each school district and the authorities in charge of each nonpublic school shall ensure that the certificate of blood lead testing exemption is properly completed according to rule 641—67.4(135).

67.10(2) Within the constraints of the privacy rights of the parents or guardians and students, the local board of health, the department of education, and the department or its designee shall have the right to have access to the department's determination that a child has received a blood lead test and to the certificates of blood lead testing exemption of children enrolled in kindergarten.

641—67.11(135) Provider training. For the purpose of quality assurance and consistency, the department shall make training and training materials available for health care providers who will be performing blood lead testing and for school officials, school health personnel, local childhood lead poisoning prevention programs, local child health centers, and local public health agencies.

These rules are intended to implement Iowa Code Supplement section 135.105D and 2008 Iowa Acts, Senate File 2111.

[Filed 7/10/08, effective 9/3/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7026B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135M.4, the Department of Public Health hereby amends Chapter 109, "Prescription Drug Donation Repository Program," Iowa Administrative Code.

The rules in Chapter 109 describe the roles and responsibilities of the Iowa Prescription Drug Corporation, the current contractor for the Prescription Drug Donation Repository Program. These amendments make a few minor wording changes to enhance operations and program efficiencies.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 21, 2008, as **ARC 6799B**. One comment was received from the Iowa Prescription Drug Corporation. Based on that comment, the words "copy of" in subrule 109.7(4) have been struck and the words "summary of data taken from" added. An additional change has been made based on recently passed legislation. An amendment to paragraph "d" of subrule 109.4(4) has been added to include the language in 2008 Iowa Acts, Senate File 2177. Finally, based on a comment from a member of the State Board of Health, the word "intake" has been retained and the proposed addition of the word "data" has been removed in subrules 109.7(2) and 109.7(4).

These amendments were adopted by the State Board of Health on July 9, 2008.

These amendments will become effective on September 3, 2008.

These amendments are intended to implement Iowa Code chapter 135M as amended by 2008 Iowa Acts, Senate File 2177.

The following amendments are adopted.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Amend paragraph **109.4(4)“d”** as follows:

d. The drug has an expiration date that is more than six months after the date that the drug was donated. However, a donated prescription drug bearing an expiration date that is six months or less after the date the prescription drug was donated may be accepted and distributed if the drug is in high demand and can be dispensed for use prior to the drug's expiration date;

ITEM 2. Amend subrule 109.7(2) as follows:

109.7(2) The local repository shall collect from each individual recipient a signed intake collection form provided by the department or its contractor ~~from each individual recipient.~~

a. The intake collection form shall attest that:

(1) to (5) No change.

b. The intake collection form will include ~~a receipt~~ an identification card to be given to the recipient for continued use for one year.

ITEM 3. Amend subrule 109.7(3) as follows:

109.7(3) The ~~receipt~~ identification card is valid for one year or until the new federal poverty guidelines have been published for all prescriptions and supplies.

ITEM 4. Amend subrule 109.7(4) as follows:

109.7(4) A ~~copy of~~ summary of data taken from the intake collection form is to be sent via regular mail, E-mail or facsimile to the centralized repository for data collection.

ITEM 5. Amend subrule 109.8(1) as follows:

109.8(1) The following forms developed for the administration of this program shall be utilized by participants of the program and are available on the program's Web page on the department's Web site, www.idph.state.ia.us.

a. Prescription drug donation repository program notice of participation or withdrawal.

b. Prescription drug donation repository program donation, transfer, inventory or destruction record.

e. ~~Prescription drug donation repository program recipient intake form and identification card.~~

~~*c.*~~ A record of medications dispensed.

ITEM 6. Renumber subrule **109.8(2)** as **109.8(3)**.

ITEM 7. Adopt the following new subrule 109.8(2):

109.8(2) The prescription drug donation repository program recipient data collection form and identification card are given to the recipient by the local repository, and the completed data collection form is collected from the recipient by the local repository.

[Filed 7/10/08, effective 9/3/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7027B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby adopts new Chapter 114, "Preparedness Advisory Committee," Iowa Administrative Code.

The rules in Chapter 114 describe the membership, duties, and meeting procedures of the Preparedness Advisory Committee.

Notice of Intended Action was published in the May 21, 2008, Iowa Administrative Bulletin as **ARC 6802B**. One comment was received from the Iowa Pharmacy Association, encouraging the Department to add a representative from the Iowa Pharmacy Association to the voting membership of the Preparedness Advisory Committee. The Department has made a change to subrule 114.4(1) to make that addition to the Committee. No other changes from the Notice have been made.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

These rules were adopted by the State Board of Health on July 9, 2008.
 These rules will become effective on September 3, 2008.
 These rules are intended to implement Iowa Code chapter 135.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 114] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 6802B**, IAB 5/21/08.

[Filed 7/10/08, effective 9/3/08]

[Published 7/30/08]

[For replacement pages for IAC, see IAC Supplement 7/30/08.]

ARC 7028B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 691.6(6), the Department of Public Health hereby amends Chapter 127, "County Medical Examiners," Iowa Administrative Code.

These amendments propose changes to the rules governing the qualifications and supervision of county medical examiner investigators.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 21, 2008, as **ARC 6804B**. No comments were received. These amendments are identical to the amendments published under Notice of Intended Action.

These amendments were adopted by the State Board of Health on July 9, 2008.

These amendments will become effective on September 3, 2008.

These amendments are intended to implement Iowa Code section 691.6.

The following amendments are adopted.

ITEM 1. Amend subrule 127.7(2) as follows:

127.7(2) Qualifications.

a. Prior to appointment, a CME-I ~~shall~~ should possess a minimum of two years of experience as a licensed or certified nurse or medical care provider; ~~and~~. A certified peace officer may be appointed to the position of CME-I if a nurse or medical care provider is not available.

b. ~~Prior to or within three years of appointment, a~~ A CME-I shall satisfy the following criteria:

(1) ~~Attend~~ Prior to or within two years of appointment, attend the St. Louis University School of Medicine Basic Medicolegal, Basic and Master's Death Investigation Course or its state medical examiner-approved equivalent; and

(2) ~~Obtain and maintain~~ Prior to or within five years of appointment, obtain certification at the registry-level as a death investigator by the American Board of Medicolegal Death Investigators.

c. and d. No change.

ITEM 2. Amend subrule 127.7(4) as follows:

127.7(4) Supervision. A CME-I shall serve under the supervision of a county medical examiner. A CME-I ~~may provide~~ provides services ~~only when in the personal presence of a county medical examiner or under the direction of a county medical examiner who is available in person or under the direction of a county medical examiner when the county medical examiner or state medical examiner's office is available by telephonic communication.~~ A CME-I shall at all times perform services in a manner which is consistent

PUBLIC HEALTH DEPARTMENT[641](cont'd)

with the protocol outlined in the most current edition of the County Medical Examiner's Handbook and any policies or protocols of the supervising county medical examiner.

[Filed 7/10/08, effective 9/3/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7030B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 128, "Dogs for Scientific Research," Iowa Administrative Code.

This amendment rescinds the rules that pertained to making available for scientific, educational and research purposes unclaimed, unwanted and unlicensed dogs. The Legislature repealed chapter 145B of the Iowa Code effective July 1, 2008. This repeal removes the Department's statutory authority for the rules.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because statutory authority for the rules has been repealed.

This amendment was adopted by the State Board of Health on July 9, 2008.

This amendment shall become effective September 3, 2008.

This amendment is intended to implement Iowa Code section 135.11.

The following amendment is adopted.

Rescind and reserve **641—Chapter 128**.

[Filed Without Notice 7/10/08, effective 9/3/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.

ARC 7029B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 22.11 and 135.11, the Department of Public Health hereby rescinds Chapter 175, "Fair Information Practices and Public Records," Iowa Administrative Code, and adopts a new Chapter 175 with the same title.

The rules in new Chapter 175 describe the Department's information policies as required under the Iowa Fair Information Practices Act. These rules provide the following:

- The nature and extent of the personally identifiable information collected by the Department;
- A description of which records are public, which are confidential, and which are partially public and confidential;
- The procedure for providing the public access to public records;
- The procedures allowing a person to review a record about that person and have additions, dissents, or objections entered in that record;
- The procedures by which the subject of a confidential record may have a copy of that record released to a named third party;
- The procedures by which the Department shall notify a person supplying information requested by the Department of the use that will be made of the information;
- Whether a data processing system matches, collates or permits the comparison of personally identifiable information in one record system with the information in another record system.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 21, 2008, as **ARC 6805B**. No comments were received. The adopted rules are identical to those published under Notice.

These rules were adopted by the State Board of Health on July 9, 2008.

These rules will become effective on September 3, 2008.

These rules are intended to implement Iowa Code chapters 17A and 22.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 175] is being omitted. These rules are identical to those published under Notice as **ARC 6805B**, IAB 5/21/08.

[Filed 7/10/08, effective 9/3/08]

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[For replacement pages for IAC, see IAC Supplement 7/30/08.]

AGENCY	RULE	DELAY
Environmental Protection Commission[567]	135.2, 135.8(1), 135.9(4), 135.10, 135.12, 135.18, Appendix B [IAB 7/2/08, ARC 6892B]	Effective date of August 6, 2008, delayed 70 days by the Administrative Rules Review Committee at its meeting held July 8, 2008. [Pursuant to §17A.4(6)]